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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x 07 Civ. 1296 (CLB)
ARAZ ALALI,

Plaintiff,

-against-

**DECLARATION OF
LALIT K. LOOMBA, ESQ.**

ROBERT GAZZOLA, individually, PATRICK J.
CARROLL, individually, and the CITY OF NEW
ROCHELLE, New York,

Defendants.

-----x

LALIT K. LOOMBA, an attorney admitted to practice law before the Courts of the State of New York and the United States District Court for the Southern District of New York, hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an associate with the firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP. I submit this declaration in support of the motion by defendants Robert Gazzola ("Gazzola"), Patrick J. Carroll ("Carroll"), and the City of New Rochelle (collectively, the "Defendants") for summary judgment on grounds of absolute and qualified immunity.

1. Annexed hereto as Exhibit A is copy of the letter from the New Rochelle Police Department ("NRPD") appointing plaintiff Araz Alali ("Alali") as an officer.

2. Annexed hereto as Exhibit B are relevant pages from the sworn deposition of plaintiff Araz Alali taken on June 25, 2007 and continued on July 10, 2007.

3. Annexed hereto as Exhibit C is a NRPD command discipline report under which Alali received a letter of reprimand for an incident occurring on August 1, 2002.

4. Annexed hereto as Exhibit D is a copy of Section 8.2 of the NRPD Rules and Regulations.

5. Annexed hereto as Exhibit E is NRPD command discipline report under which Alali received a letter of reprimand for an incident occurring on October 29, 2002.

6. Annexed hereto as Exhibit F is a copy of Section 1.5 of the NRPD Rules and Regulations.

7. Annexed hereto as Exhibit G is a NRPD command discipline report under which Alali lost one (1) leave day for an incident occurring on December 23, 2002.

8. Annexed hereto as Exhibit H is a copy of Section 1.9 of the NRPD Rules and Regulations.

9. Annexed hereto as Exhibit I is a NRPD command discipline report under which Alali received a letter of reprimand for an incident occurring on January 19, 2005.

10. Annexed hereto as Exhibit J is a copy of Chapter 2, Article 2.03, of the NRPD Manual of Procedure.

11. Annexed hereto as Exhibit K is a NRPD command discipline report under which Alali lost two (2) leave days for an incident occurring on April 14, 2005.

12. Annexed hereto as Exhibit L is a copy of Section 2.3 of the NRPD Rules and Regulations.

13. Annexed hereto as Exhibit M is a command discipline report under which Alali was offered the loss of one (1) leave day, in lieu of formal disciplinary charges and a hearing, for an incident occurring on June 15, 2006.

14. Annexed hereto as Exhibit N is a copy of the charges and specifications against Alali signed by Captain Robert Gazzola on February 15, 2007.

15. Annexed hereto as Exhibit O is a copy of Alali's performance evaluation for the period November 26 through December 31, 2004.

16. Annexed hereto as Exhibit P is a copy of the "letter of counsel" dated September 29, 2005.

17. Annexed hereto as Exhibit Q is a copy of Alali's performance evaluation for the period January 1 through December 31, 2005.

18. Annexed hereto as Exhibit R is a copy of Alali's interim performance evaluation for the period January 1 through May 31, 2006.

19. Annexed hereto as Exhibit S is a copy of Alali's performance evaluation for the period January 1 through December 31, 2006.

20. Annexed hereto as Exhibit T is a copy of Alali's interim performance evaluation for the period January 1 through May 31, 2007.

21. Annexed hereto as Exhibit U is a copy of a memorandum from Captain Gazzola dated July 25, 2007.

22. Annexed hereto as Exhibit V is a copy of Section 13.1 from the NRPD Administrative Manual.

23. Annexed hereto as Exhibit W is a copy of DVD video taken from Alali's police vehicle on June 15, 2006.

24. Annexed hereto as Exhibit X is a copy of Article 2.11 of the NRPD Manual of Procedure.

25. Annexed hereto as Exhibit Y is a copy of a document listing the NRPD officers who were assigned to attend a seminar entitled "Tools for Tolerance" in October and November 2005, as well as a brief description of the seminar.

26. Annexed hereto as Exhibit Z are relevant pages of the NRPD "Post Patrol Book."

27. Annexed hereto as Exhibit AA are relevant pages from the agreement between the City of New Rochelle and the New Rochelle Police Association effective January 1, 2005.

28. Annexed hereto as Exhibit BB is a copy of an EEOC Charge purportedly signed by Alali on February 12, 2007.

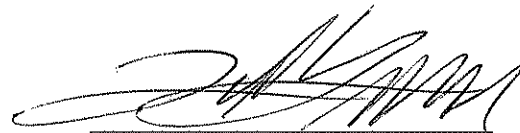
29. Upon information and belief, the EEOC has not issued a right-to-sue letter in connection with the EEOC Charge annexed as Exhibit BB.

30. Annexed hereto as Exhibit CC is a copy of the complaint in this action.

31. Annexed hereto as Exhibit DD is a copy of Defendants' answer.

32. Annexed hereto as Exhibit EE is a copy of the civil case discovery plan and scheduling order entered May 25, 2007.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 2, 2007.

A handwritten signature in black ink, appearing to read 'Lalit K. Loomba', written over a horizontal line.

Lalit K. Loomba



Patrick J. Carroll
Commissioner

City of New Rochelle
New York

February 1, 2002

Mr. Araz Alali
828 Pelhamdale Avenue, #1
New Rochelle, New York 10801

Dear Mr. Alali:

I wish to inform you that your effective date of employment with the New Rochelle Police Department is Sunday, February 10, 2002.

You are to report to Lieutenant Cosmo Costa at 9:00 AM on Wednesday, February 6, 2002, to be sworn in, measured for uniforms, etc. Please bring a copy of your Certificate of Completion of the New York City Police Academy course with you.

Once again, I wish to take this opportunity to congratulate you and welcome you to the Department.

Sincerely,

Patrick J. Carroll
Police Commissioner

/ays



ORIGINAL

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 ARAZ ALALI,

4 Plaintiff,

5 -against-

6 ROBERT GAZZOLA, INDIVIDUALLY,

7 PATRICK J. CARROLL,

8 INDIVIDUALLY, AND THE CITY OF

9 NEW ROCHELLE, NEW YORK,

10 Defendants.

11 -----X
12 Wilson Elser Moskowitz Edelman & Dicker, LLP

13 3 Gannett Drive, 4th Floor

14 White Plains, New York 10604

15 June 25, 2007

16 1:15 PM

17 Examination before Trial of PLAINTIFF,

18 ARAZ ALALI, held pursuant to Notice, at the above

19 time and place, before Susie Cabanas-Diaz, a Notary

20 Public of the State of New York.
21
22
23
24

2 A P P E A R A N C E S :

3 LOVETT & GOULD, LLP

Attorneys for Plaintiff

4 222 Bloomingdale Road

White Plains, New York 10605-1513

5 BY: JONATHAN LOVETT, ESQ.

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6
7 WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER, LLP

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8 3 Gannett Drive

White Plains, New York 10604-3407

9 BY: PETER A. MEISELS, ESQ.

Email: peter.meisels@wilsonelser.com

10
11 ALSO PRESENT:

12 Lalit K. Loomba, Esq.

13 Wilson Elser Moskowitz Edelman & Dicker, LLP

2 IT IS HEREBY STIPULATED AND AGREED, by
3 and between the attorneys for the respective
4 parties hereto, that this examination may be
5 sworn to before any Notary Public.

6
7 IT IS FURTHER STIPULATED AND AGREED that
8 the sealing and filing of the said examination
9 shall be waived.

10
11 IT IS FURTHER STIPULATED AND AGREED that
12 all objections to questions except as to form
13 shall be reserved for trial.

ARAZ ALALI

descent. No, I do not.

Q Not Caucasian?

A No.

Q Referring to paragraph eight of your complaint where it says, "In that connection, plaintiff has, to defendants' knowledge and/or at their direction and/or with their active encouragement and condonation."

Now, that paragraph when you reference defendants, who do you mean?

A Defendants as being Robert Gazzola, Commissioner Carroll.

Q And let's take a look at the first subdivision of paragraph A where it says, "Repeatedly addressed as terrorist, Ali Baba, Camel Jockey and, inter alia, Ali -- repeatedly addressed as terrorist, Ali Baba, Camel Jockey and, inter alia, Ali."

Who in the department ever addressed you as being a terrorist?

A That would be Captain Gazzola.

Q He told you you were a terrorist?

A And other supervisors.

Q Let's start with Mr. Gazzola. When did he

1 ARAZ ALALI

2 refer to you as a terrorist?

3 A I would have to -- I don't presently
4 recall. I would have to refresh my memory.

5 Q Is there anything that you could use that
6 would refresh your memory?

7 A I'm sure there is.

8 Q What would that be?

9 A Talking to counsel.

10 Q Is there anything else that would refresh
11 your memory other than speaking with counsel?

12 A Not right now.

13 Q At any time?

14 A I believe no. Not right now or at any
15 time.

16 Q Do you keep a memo book?

17 A Yes, I do.

18 Q Would that memo book indicate when that
19 happened?

20 A I don't presently recall.

21 Q Do you keep that memo book for every day
22 that you're on duty?

23 A Yes.

24 Q At the time that Captain Gazzola referred
25 to you as a terrorist, was anyone else present?

ARAZ ALALI

A I don't presently recall.

Q Where did that occur?

A In the police station.

Q Where in the police station?

A I don't presently recall.

Q And on how many occasions did it occur?

A I don't presently recall.

Q Did you make any note about that
occurrence when it happened?

A I don't presently recall.

Q Is there anything about Captain Gazzola's
having called you a terrorist that you can recall
that I haven't asked you?

A I don't recall.

Q Your complaint talks about being referred
to as Ali Baba. Can you identify the city employees
that referred to you as Ali Baba?

A I don't presently recall.

Q Just back up a little bit. You mentioned
in reference to the word terrorist that there were
other supervisors that used that term besides
Captain Gazzola, is that correct?

A Correct.

Q Can you identify who those persons are?

1 ARAZ ALALI

2 A I don't presently recall.

3 Q Now, in reference to the term Camel
4 Jockey, can you identify the city employees that
5 referred to you as the Camel Jockey?

6 A Yes.

7 Q Who were they?

8 A I don't presently recall.

9 Q Do you recall when they referred to you as
10 a Camel Jockey?

11 A I don't presently recall.

12 Q Do you recall where they referred to you
13 as a Camel Jockey?

14 A Inside the police station.

15 Q Do you recall where inside the police
16 station?

17 A I don't presently recall.

18 Q Do you recall when any city employee
19 referred to you as Ali Baba?

20 A Repeat the question, please.

21 Q Do you recall when any New Rochelle
22 employee referred to you as Ali Baba?

23 A I don't presently recall.

24 Q Do you recall where they referred to you
25 as Ali Baba?

1 ARAZ ALALI

2 A I don't presently recall.

3 Q Do you recall -- withdrawn.

4 Can you identify any city employee
5 who referred to you as Ali?

6 A Yes.

7 Q Can you tell me who that was?

8 A I don't presently recall.

9 Q And can you tell me when any city employee
10 referred to you as Ali?

11 A I don't presently recall.

12 Q Can you tell us where any city employee
13 referred to you as Ali?

14 A I don't presently recall.

15 Q Did you make any notation of that incident
16 when some city employee referred to you as Ali?

17 A I don't presently recall.

18 Q Now, aside from the terms that are
19 mentioned in subparagraph A, terrorist, Ali Baba,
20 Camel Jockey and Ali, has any city employee referred
21 to you in any term that you considered to be
22 derogatory?

23 A Yes.

24 Q Can you tell us what those terms were?

25 A Bin Laden. I don't presently recall any

1 ARAZ ALALI

2 others.

3 Q Can you identify what city employee
4 referred to you as Bin Laden?

5 A I don't presently recall.

6 Q Do you recall when any city employee
7 referred to you as Bin Laden?

8 A I don't presently recall.

9 Q Do you recall where any city employee
10 referred to you as Bin Laden?

11 A I don't presently recall.

12 Q Did you make any notation of the fact that
13 some city employee referred to you as Bin Laden?

14 A I don't presently recall.

15 Q Is there anything that could refresh your
16 recollection as to when some city employee referred
17 to you as Bin Laden?

18 A I'm sure there is.

19 Q Can you tell us what that could be?

20 A Talking to counsel.

21 Q Is there anything else other than talking
22 to counsel that would refresh your recollection?

23 A I don't presently recall.

24 Q Moving down to -- withdrawn.

25 What is the basis -- withdrawn.

1 ARAZ ALALI

2 Do you believe that Commissioner
3 Carroll was aware of the fact that some city
4 employee referred to you as a terrorist?

5 A Yes.

6 Q What is the basis for your belief that he
7 was aware of that?

8 A Being the police commissioner.

9 Q Any other reason to believe that he knew
10 that that happened?

11 A Being the police commissioner.

12 Q Aside from being the police commissioner,
13 is there any other reason?

14 A That was it. Just that.

15 Q Just the fact that he's the commissioner?

16 You have to say yes or no for the
17 purpose of the record.

18 A No, not at this time. I don't believe any
19 other reasons at this time.

20 Q Do you believe that Commissioner Carroll
21 knew that some city employee referred to you as Ali
22 Baba?

23 A Yes.

24 Q What's the basis for your belief that he
25 knew that?

ARAZ ALALI

A Being the police commissioner.

Q Any other reason?

A I don't believe so.

Q Do you believe that Captain Gazzola was aware of the fact that some city employee referred to you as Ali Baba?

A Yes.

Q What is the basis for your belief?

A Captain on patrol.

Q Any other reason?

A The reasons in this complaint.

Q Let me rephrase it. Do you have any other reason, other than the fact that Captain Gazzola was the captain, that he was aware that someone referred to you as Ali Baba?

A I believe I addressed that, that he had called me and addressed me as a terrorist. So yes.

Q No, I understand --

A Ali Baba?

Q Ali Baba. We're done with the terrorist. We're up to Ali Baba.

A Yes.

Q What's the basis for your belief that he knew that someone called you by the name of Ali

ARAZ ALALI

Baba?

A Captain on patrol.

Q Just by virtue of his position?

A And his direct contact with other supervisors, and he had supervisory control of them.

Q Other than what you've just mentioned, do you have any other reason to believe that he was aware of the fact that somebody referred to you as Ali Baba?

A The reasons I think -- I actually know, in 8B, C, D and forward of this complaint.

Q But I need you to explain in your own words what the facts are. Okay. So let me -- if my question is unclear, just tell me. I'm happy to rephrase it.

Other than the fact that Captain Gazzola is the captain, is there any other reason to believe that he knew that someone referred to you as Ali Baba?

A Yes.

Q Which is? If you can explain what that reason is.

A It's clearly spelled out in the complaint from 8B and forward. From 8A forward.

1 ARAZ ALALI

2 Q Other than what's explained in the
3 complaint, do you have any reason to believe he was
4 aware of that fact?

5 A I don't believe so.

6 Q In reference to the term Camel Jockey, is
7 there any reason to believe that the commissioner
8 was aware of the fact that someone referred to you
9 as a Camel Jockey?

10 A Yes.

11 Q What is the basis for your belief?

12 A Being the police commissioner of the
13 department.

14 Q Is there any other basis for your belief,
15 other than the fact that he is the commissioner?

16 A I don't believe so.

17 Q Okay.

18 MR. LOVETT: Give me one minute, okay.

19 MR. MEISELS: Sure.

20 (Brief Recess Taken)

21 Q Okay?

22 A Okay to what?

23 Q To proceed?

24 A Yes.

25 MR. MEISELS: Can I have my last question

1 ARAZ ALALI

2 read back?

3 (Record Read Back)

4 Q Do you believe that Captain Gazzola was
5 aware of the fact that some city employee referred
6 to you as the Camel Jockey?

7 A Yes.

8 Q What is the basis for your belief that he
9 was aware of that?

10 A After being served with this complaint --

11 Q Right.

12 A -- Captain Gazzola had given a direct
13 order, standing order, to the supervisors under his
14 command to put me inside the civilian radio room,
15 which is primarily performed by civilian personnel.
16 Part of the order also stated that I was to have
17 absolutely no contact with the public, not to even
18 view them in the front area of the police station
19 where they walk in. But barring me from being on
20 the street, confining me to the positions --
21 humiliating positions such as dispatcher, watching
22 suicidal prisoners, being a jail maiden, and barring
23 me from using any police or departmental vehicles at
24 any time.

25 Q And is that the basis for your belief that

1 ARAZ ALALI

2 he knew that someone called you a Camel Jockey?

3 A There are other reasons.

4 Q Could you explain what they are?

5 A The chronic below-standard job performance
6 evaluations when my -- the fact is my job
7 performance evaluations are higher than any other
8 member of the service, clearly above standard. The
9 fabrications within the job performance appraisal,
10 which I addressed in your numerous rebuttal letters.

11 The fact the captain has barred me
12 from working any overtime or doing any mutual
13 switches based on the fabricated below-standard job
14 performance levels. Forcing me to go to classes
15 such as Tools for Tolerance, post 9/11, which I did
16 not request to go and clearly made it a point to
17 state that I did not want to go but was ordered to
18 go.

19 Repeatedly being put on these false
20 investigations which states that there was
21 wrongdoing when there was absolutely no wrongdoing.
22 Forced to walk foot post in the snow during the
23 midnight tour when there are no foot posts on the
24 midnight tour.

25 Relegated to work the demeaning

1 ARAZ ALALI

2 assignments such as issuing parking tickets on a
3 given street and that street, the -- barring me from
4 doing any police station functions. Just relegated
5 to issue parking tickets in a confined area.

6 After filing the complaint, the EEOC
7 initially, retaliating by then serving me with false
8 charges and specifications, which is calling for a
9 30 day suspension. There are countless other things
10 that presently do not come to my memory at this time
11 but I'm sure I'll be able at some point to remember
12 others.

13 Q As you sit here today, can you tell us any
14 other reasons that you believe that Captain Gazzola
15 was aware of the fact that someone called you a
16 Camel Jockey?

17 A The reasons I just stated to you.

18 Q Can you think of any others?

19 A Not at this time.

20 Q In reference to the term Ali, do you
21 believe that the commissioner was aware that someone
22 referred to you as the name Ali?

23 A I do.

24 Q What is the basis for your belief?

25 A Yes. The reason being, the commissioner

1 ARAZ ALALI

2 being served with this complaint has done absolutely
3 nothing about it. I have continually been the
4 subject of retaliation. Being degraded and
5 humiliated. The commissioner has called me into his
6 office and told me to drop the lawsuit, otherwise it
7 will be a long career for me. I believe the
8 commissioner committed acts of attempted coercion
9 and official misconduct.

10 Q Other than what you've just mentioned, do
11 you have any other reason to believe that he was
12 aware of the fact that someone referred to you as
13 Ali?

14 A Also the numerous departmental
15 communications that I personally addressed to him
16 regarding these bias acts, and he's done nothing
17 about them.

18 Q In any one of your communications, did you
19 ever tell him you were referred to by the name of
20 Ali?

21 A I don't presently recall. I know there
22 was a flurry of communications to him.

23 Q Other than the things that you just
24 mentioned, do you have any other reason to believe
25 that he was aware of the fact that someone called

ARAZ ALALI

you the name Ali?

A Not at this time, I don't believe so.

Q Do you believe that Captain Gazzola was aware of the fact that you were referred to by the name Ali?

A Yes. By all the things I have indicated that Captain Gazzola -- earlier on. Forcing me to -- giving these calculated below-standard evaluations, forcing me to attend these degrading seminars, which I -- denying me of any meaningful specialized training. And all of the things I have indicated earlier.

Q Other than what you've already mentioned today, is there any other basis for your belief that he was aware of the fact that someone called you the name Ali?

A I don't believe so.

Q When I say he, I'm referring to Captain Gazzola. Are we on the same wavelength?

A Yes.

Q Do you believe that the commissioner was aware of the fact that someone referred to you by the name Bin Laden?

A Yes.

1 ARAZ ALALI

2 Q What's the basis for your belief that the
3 commissioner was aware of that?

4 A Being served with this complaint, he has
5 done nothing about it and these acts have continued
6 to go on. By him calling me, as I stated earlier,
7 into his office, stating to drop the lawsuit, it
8 would be in my best interest to drop the lawsuit.
9 That he was starting me on a clean slate. I have
10 expressed to him if that was the case, a clean slate
11 should start now.

12 Q Other than what you've just mentioned, do
13 you have any other reason to believe that the
14 commissioner was aware of the fact that someone
15 referred to you by the name Bin Laden?

16 A I don't believe so.

17 Q Do you believe the Captain Gazzola was
18 aware of the fact that someone referred to you by
19 the name Bin Laden?

20 A By all the reasons I have stated earlier.

21 Q Other than what you've already testified
22 to today, do you have any other reasons to
23 believe --

24 A I don't presently recall.

25 MR. LOVETT: Let him finish.

1 ARAZ ALALI

2 Q Other than what you've already testified
3 to today, do you have any reason to believe that
4 Captain Gazzola was aware of the fact that someone
5 called you the name Bin Laden?

6 A I don't presently recall.

7 Q Now, moving on to -- withdrawn.

8 Did you ever complain in writing to
9 anyone about having been called the name Bin Laden?

10 A I don't presently recall.

11 Q Did you ever in writing complain to anyone
12 about having been called a Camel Jockey?

13 A I don't presently recall.

14 Q Did you ever complain to anyone in writing
15 about having been called Ali?

16 A I don't presently recall.

17 Q Did you ever complain to anyone in writing
18 about having been called Ali Baba?

19 A I don't presently recall.

20 Let me just add to that that this
21 complaint stated that -- other than this complaint?

22 Q Yes. Correct, absolutely. Other than
23 this complaint.

24 A I don't presently recall.

25 Q And other than this complaint, have you

1 ARAZ ALALI

2 ever complained to anybody about having been called
3 a terrorist, in writing?

4 A I don't presently recall.

5 Q Is this the -- is your complaint the first
6 written complaint that you've made about having been
7 called these names?

8 A I don't presently recall.

9 Q Moving on to subparagraph B. Page 3,
10 paragraph A but sub B, okay. It says, "Repeatedly
11 been denied any meaningful specialized training,
12 which training is routinely provided by defendants
13 to police officers junior to plaintiff in
14 seniority." Is that correct?

15 A Yes.

16 Q Could you explain what specialized
17 training you have not received that you believe you
18 should have received?

19 A I haven't received any specialized
20 training.

21 Q When you use the term meaningful
22 specialized training, is that different from
23 specialized training?

24 A Yes.

25 Q Could you explain what the difference is?

1 ARAZ ALALI

2 A Meaningful specialized training would be
3 training that would be beneficial to my function as
4 a patrol officer.

5 Q Have you received any specialized training
6 since you've been a New Rochelle police officer?

7 A No.

8 Q Could you explain what you mean by
9 specialized?

10 A Training such as anticrime school, data
11 master school, radar school, CIU cross-training.
12 Glock armory school. I'm sure there is other
13 specialized training that I'm leaving out.
14 Interview and interrogation techniques. To date I
15 have not received any specialized training, although
16 I have asked for it.

17 Q Have you ever asked for it in writing?

18 A Yes.

19 Q And do you recall when you did that?

20 A I don't presently recall.

21 Q And to whom did you direct your requests?

22 A I don't presently recall.

23 Q Now, referring back to the language of
24 your complaint, indicates, "which training is
25 routinely provided by defendants to police officers

1 ARAZ ALALI

2 A I don't presently recall.

3 Q Do you remember how many New Rochelle
4 police officers you saw there?

5 A No.

6 Q Do you know whether or not those officers
7 were persons of Middle Eastern descent?

8 A There was no one else of Middle Eastern
9 descent besides myself there.

10 MR. LOVETT: Objection as to form. You
11 said could.

12 MR. MEISELS: Could?

13 MR. LOVETT: That was the question. I'm
14 objecting as to form.

15 MR. MEISELS: Okay, fair enough.

16 Q Officer Alali, referring again to
17 subparagraph C, it indicates that you were forced to
18 attend a seminar concerning Tools for Tolerance
19 post-9/11, which assignment was calculated by
20 defendant to humiliate and embarrass the plaintiff.

21 Could you explain what the basis is
22 for your belief that anyone intended to humiliate
23 and embarrass you by assigning you to go to that
24 seminar?

25 A That seminar entailed terrorists that were

1 ARAZ ALALI

2 responsible for September 11th. Being called a
3 terrorist, Ali Baba, Camel Jockey, and then sent to
4 that class was embarrassing and humiliating. After
5 expressing that I did not want to go.

6 Q Who did you explain that to, that you did
7 not want to go?

8 A Captain Gazzola.

9 Q Did you tell it to anybody else?

10 A I don't presently recall.

11 Q Did you put your objection in writing?

12 A I don't presently recall.

13 Q Now, is it your belief that the assignment
14 of the other New Rochelle police officers to go to
15 that seminar was also calculated to humiliate and
16 embarrass them?

17 A I believe there was a few slots to go to
18 this class and I believe the other members of the
19 service that went were just to fill in those few
20 slots.

21 Q Let me rephrase the question. Do you
22 believe that these other members of the New Rochelle
23 Police Department were assigned to go to that
24 seminar in an effort to humiliate and embarrass
25 them?

1 ARAZ ALALI

2 A No, they were not of Middle Eastern
3 descent.

4 Q What is the basis for your belief that
5 those officers were not of Middle Eastern descent?

6 A Being that I feel I'm the only -- I know
7 I'm the only Middle Eastern police officer in the
8 department.

9 Q And other than what you've already
10 testified to today, is there any other basis for
11 your belief that you're the only officer of Middle
12 Eastern descent in the police department?

13 A No.

14 Q Do you know whether or not there are any
15 Jewish police officers in the police department?

16 A I don't know.

17 Q Okay. Do you believe that Commissioner
18 Carroll calculated to embarrass you by having you
19 assigned to go for that Tools for Tolerance seminar?

20 A Yes.

21 Q What is the basis for your belief that he
22 contemplated embarrassing you?

23 A Firstly, by being the police commissioner.
24 Secondly, by -- I expressly -- I did tell Captain
25 Gazzola that I did not want to attend the seminar.

1 ARAZ ALALI

2 The fact that I was -- all the other facts in this
3 complaint that he was aware of.

4 Q Do you believe that Captain Gazzola
5 calculated to humiliate and embarrass you by sending
6 you to the seminar?

7 A Yes.

8 Q What is the basis for your belief that he
9 intended to embarrass and humiliate you?

10 A What I stated earlier, by calling me those
11 derogatory names, as well as upon me telling him
12 that I did not want to go, he ordered me to go.

13 Q Now, do you recall whether you attended
14 this seminar in the year 2001?

15 A I joined the police department in 2002.

16 Q That's correct. Withdrawn.

17 Do you recall whether you attended
18 the seminar in 2002?

19 A I don't presently recall.

20 Q Do you recall what year you attended the
21 seminar?

22 A I don't presently recall.

23 Q Had you been called the name terrorist
24 before you were assigned to go to the seminar?

25 A I don't presently recall.

1 ARAZ ALALI

2 Q Had you been called the name Ali Baba
3 before you were assigned to go to the seminar?

4 A I don't presently recall.

5 Q Had you been called the name Camel Jockey
6 before you were assigned to go to the seminar?

7 A I don't presently recall.

8 Q Had you been called the name Ali before
9 you were assigned to go to the seminar?

10 A I don't presently recall.

11 Q Okay. Had you been called the name Bin
12 Laden before you were assigned to go to the seminar?

13 A I don't presently recall.

14 Q Aside from those derogatory terms that
15 we've just mentioned, had you been the victim of any
16 other forms of intolerance before you were assigned
17 to go to the seminar?

18 A I don't know the date that I went to the
19 seminar so I can't accurately answer that question.

20 Q Okay. Aside from the commissioner and
21 aside from Captain Gazzola, are you aware of any
22 other city employee who intended to humiliate or
23 embarrass you by having you assigned to go to that
24 seminar?

25 A I don't believe so.

1 ARAZ ALALI

2 Q Okay. Referring to the next subparagraph,
3 D, it says, "Systematically been given calculatedly
4 false below-standard job performance evaluations."

5 As you sit here today, who do you
6 understand calculated to give you those
7 below-standard job performance evaluations?

8 A Captain Gazzola.

9 Q Anybody else?

10 A I don't believe so.

11 Q Okay. And reading on in your complaint
12 where it says, "When in fact his job performance has
13 consistently been above average."

14 Could you explain what the basis is
15 for your belief that your performance has been
16 consistently above average?

17 A Yes. A performance evaluation that was
18 recently conducted by Sergeant Kyle Wilson stated
19 that since I have entered the New Rochelle Police
20 Department in 2002, I have been consistently the
21 top-producing police officer.

22 There are goals/objectives that are
23 set forth by the department. Those goals and
24 objectives are 120 moving violations per year that
25 consist of ten moving violations per month and 25

1 ARAZ ALALI

2 parkers a month. I don't know what that totals out
3 to.

4 But since I have been there, since
5 2002, I have well exceeded that. Other officers who
6 have not even come close to that, not even met the
7 goals or objectives, have been given standard
8 performance evaluations.

9 As far as also arrests, I work the
10 second tour, which is eight to four. I have the
11 highest arrest on that tour since I have been there,
12 every year. Just to give you an example, between
13 March and May 31st, I have exceeded the 120 that is
14 given as an annual objective. Also during that
15 period I have had 19 arrests. However, I have been
16 given a below-standard evaluation by Sergeant Brady.
17 Other members of the service that clearly do not
18 have those performance levels are given either
19 above-standard or standard performance evaluations.
20 And that also serves as them barring
21 me from doing any overtime, which substantially
22 impaired my income. And also barring me from doing
23 mutual switches, which again is a great
24 inconvenience since I care for a two-and-a-half-
25 year-old child.

1 ARAZ ALALI

2 That letter also was generated by
3 Captain Gazzola himself, stating that I was barred
4 from doing overtime assignments and also barred from
5 doing mutual switches.

6 Q As far as you know, is there any
7 acceptable number of civilian complaints that a
8 police officer is allowed to receive?

9 A Civilian complaints fall into different
10 categories of substantiated, unsubstantiated,
11 exonerated. There is no number set forth by the
12 department as I stated with the other numbers, such
13 as parking violations is 25 per month, 10 moving
14 violations per month. There is no number. I have
15 received complaints. Almost every one of them has
16 been unsubstantiated.

17 Q Does the term -- is the term
18 unsubstantiated synonymous with unfounded?

19 A I believe so.

20 Q Do you have any understanding as to how
21 you compare with other police officers in terms of
22 the number of civilian complaints that have been
23 received?

24 A No. But I do know how I fare with the
25 other officers as far as arrests and summonses.

1 ARAZ ALALI

2 Clearly above. I lead the tour every year that I
3 have been a member of the service with the New
4 Rochelle Police Department, since 2002, as indicated
5 by Sergeant Wilson's evaluation, as indicated by the
6 rebuttal letters.

7 Q And is Sergeant Wilson's evaluation the
8 basis for your belief that you led the other
9 officers?

10 A No. On top of the -- there is a system
11 you can get into which shows -- computer-based
12 system that shows the numbers for each officer,
13 which is inputted by a civilian member of the
14 service, and it's spelled out in black and white.
15 The sergeant would use that to transpose that onto
16 the performance evaluations.

17 Q Does that system indicate to you where you
18 stand in comparison to other police officers?

19 A The numbers show I have ten summonses and
20 you one, clearly I would have more summonses than
21 you.

22 Q Are you able to see what other police
23 officers have done by accessing that system?

24 A Yes.

25 Q Okay. Have you done that?

1 ARAZ ALALI

2 A Yes.

3 Q Going back to subparagraph D of
4 paragraph 8 of your complaint where it indicates,
5 "use of language replete with fabrications and
6 falsehoods."

7 As you sit here today, what
8 fabrications or falsehoods were included in your job
9 evaluation?

10 A Many. I don't have the narrative in front
11 of me of those performance evaluations, but by the
12 mere fact that they were clearly rated falsely as
13 below standard and not above standard is the crux of
14 why it's completely fabricated. I would have the
15 exact narrative in front of me to point out each and
16 every one of the fabrications, but the overall
17 evaluation being served as below standard is clearly
18 false.

19 Q And is the basis for your opinion that
20 those evaluations were false that your numbers are
21 significantly higher than the other officers?

22 A I don't think it's opinion. I think it's
23 factual. I think numbers are factual. Again, I
24 think if you use number one, one is less than -- two
25 is greater than one. I don't think there is any

1 ARAZ ALALI

2 opinionation [sic] in performance numbers, arrest
3 numbers. No matter what angle you look at these
4 numbers, they are black and white. Stand on its own
5 merit.

6 Q Is the basis for your belief that these
7 evaluations were false the fact that your numbers
8 were higher than other police officers?

9 A I don't believe. Let me make that clear.
10 I don't believe them to be false, I know them to be
11 false. It's not opinionated. It's not a belief.
12 It's not mythical. It's factually false.

13 Q Is it your understanding that they're
14 false based upon your numbers being higher than
15 other police officers?

16 A My understanding they're false for
17 numerous reasons, by sergeants themselves telling me
18 Captain Gazzola has ordered them to make them below
19 standards, and they apologize. They're false for,
20 as I have indicated, I have had the highest
21 performance levels in all the areas of a patrol
22 officer.

23 Q Can you identify the persons who told you
24 that Captain Gazzola ordered them to classify you as
25 below standards?

1 ARAZ ALALI

2 better way to put it, yes.

3 Q Okay. Did anyone ever give you a
4 justification, whether you agreed or disagreed with
5 it, as to why you were assigned to be a dispatcher?

6 A Yes. During this whole process I had PBA
7 president Edward Hayes with me. We spoke to
8 Lieutenant Fortunato with the internal affairs
9 division and he stated that the reason I was inside
10 was because Commissioner Carroll had told myself and
11 Edward Hayes that there was an investigation going
12 on of wrongdoing on my part.

13 When we spoke to Lieutenant
14 Fortunato, he said, I don't know of any order that
15 was given, so I was given two sides of the story.
16 And then when we went back to Commissioner Carroll,
17 he said that there was an investigation going on and
18 that's why you're inside. Fortunato, although he
19 was investigating it, he said he didn't know if that
20 was the reason I was inside.

21 And present during this whole thing,
22 every time I spoke to Lieutenant Fortunato and
23 Commissioner Carroll, was Edward Hayes.

24 Q So am I correct that you were told that
25 the justification for being assigned to be a

1 ARAZ ALALI

2 dispatcher was that there was an internal affairs
3 investigation, is that correct?

4 A By Captain Gazzola himself in front of
5 Edward Hayes, yes. We spoke with Captain Gazzola
6 personally on this issue.

7 Q And the person who told you that there was
8 a pending investigation was Captain Gazzola?

9 A And Commissioner Carroll.

10 Q And did you ever learn what complaint was
11 being investigated?

12 A Yes.

13 Q What was it?

14 A Complaint from a FedEx driver that I had
15 arrested.

16 Q What is the name of that person?

17 A I don't presently recall.

18 Q Prior to arresting that FedEx driver, had
19 you had any prior dealings with him?

20 A Yes. Captain Gazzola and Lieutenant
21 Marshall had called me in their office stating he
22 had made a complaint regarding making an illegal
23 u-turn. They stated -- they forced -- Captain
24 Gazzola forced me to work a car with a camera in it,
25 against my will. I didn't want to work in a car

1 ARAZ ALALI

2 unlicensed operator. Resisting arrest. Failing to
3 comply to a police officer. And that he had
4 committed numerous traffic violations, which one of
5 them being a red light. I don't recall the other
6 violations. Numerous traffic violations that he was
7 given citations for as well.

8 Q Now, you say you arrested him for
9 resisting arrest, correct?

10 A No.

11 Q That was one of the -- no, you didn't?

12 A You asked me what the charges were.

13 Q Correct.

14 A I said that was one of the charges. That
15 was not what I arrested him for.

16 Q What did you arrest him for?

17 A Unlicensed operator. He refused to give
18 me his license. He had no form of I.D. on him that
19 he would give me. That summons was limited. That
20 came subsequent to resisting arrest.

21 Q Other than the time that you gave him the
22 ticket for making a u-turn and the time that you
23 arrested him, did you have any other contact with
24 this FedEx driver?

25 A I don't presently recall. I was assigned

1 ARAZ ALALI

2 to give parking tickets on a stretch of North
3 Avenue. There's many deliveries being made on North
4 Avenue. And I had very high numbers for parking
5 summons.

6 So I don't know if I had summons to
7 him personally, delivered a summons upon him, no.

8 Q Did you have a dispute with him about his
9 delivery of a package to your house?

10 A Yes.

11 Q When was that?

12 A I don't presently recall.

13 Q You recognized him at the time that you
14 arrested him as a person you had a dispute with?

15 A Not initially.

16 Q At what point did you recognize him?

17 A After the incident.

18 (Brief Recess Taken)

19 Q Officer Alali, let's refer back to Page 3
20 of your complaint and subparagraph D, is it your
21 contention that as a result of receiving below
22 standard job evaluations that you've suffered
23 pecuniary loss?

24 A Yes.

25 Q Can you estimate what that loss has been?

1 ARAZ ALALI

2 the past two years, very, very few. I can count
3 probably on one hand how many hours I have had. A
4 few.

5 Q And were there any years in which you
6 received anything more than a below-standard
7 evaluation since you've been a New Rochelle police
8 officer?

9 A I don't understand the question. I don't
10 believe there's a category substandard. Anything
11 more than below standard?

12 Q No, higher than?

13 A Higher than, yes.

14 Q What was your evaluation for the year
15 2002?

16 A I don't presently recall.

17 Q Was it below standard?

18 A No.

19 Q What was your evaluation for 2003?

20 A I don't presently recall.

21 Q Was it below standard?

22 A No.

23 Q What was your evaluation for the year
24 2004?

25 A I don't presently recall.

1 ARAZ ALALI

2 Q Was it below standard?

3 A No.

4 Q And what was your evaluation for 2005?

5 A I don't presently recall.

6 Q Was that below standard?

7 A Could have been.

8 Q All right. Now, let's go back to the
9 first three years that you were employed as a New
10 Rochelle police officer: 2002, 2003, 2004. During
11 those three years, as far as you know, did anyone in
12 the New Rochelle Police Department know that you
13 were of Middle Eastern descent?

14 A I believe so.

15 Q And am I correct that for the years 2002,
16 2003 and 2004, you did not receive below-standard
17 evaluations?

18 A Yes.

19 Q Let me go back to subparagraph D.

20 A On Page 4?

21 Q Yes. Page 3. Sorry. The bottom of
22 Page 3. Got it?

23 A I got it.

24 Q Okay. You had explained to me the
25 distinction between departmental overtime and

1 ARAZ ALALI

2 dispatcher. I don't know exactly when.

3 Q Can you estimate how -- withdrawn.

4 Can you estimate on how many
5 occasions each year a police officer is assigned to
6 work as a dispatcher?

7 A How many times a year?

8 Q Each year does that happen?

9 A I would have no idea. All I know is that
10 it is a civilian function and I don't remember any
11 police officer doing it for an extensive period of
12 time such as half a year.

13 Q Am I correct that you do recall that other
14 police officers have been assigned for some period
15 of time to do that?

16 A Some very short periods of time.

17 Q What's the longest period of time that you
18 can recall any police officer assigned to be a
19 dispatcher?

20 A I would say -- I don't know who, but when
21 a police officer is injured, for the period of time
22 they're injured or impaired, that would probably be
23 a longer period of time than when a civilian member
24 calls in sick.

25 Q Let's take a look at subparagraph E where

1 ARAZ ALALI

2 it indicates, "Forced to work walking posts during a
3 midnight to 8:00 a.m. tour of duty."

4 When were you assigned to a walking
5 post on the 8:00 a.m. -- on the midnight to
6 8:00 a.m. tour?

7 A Again, when I was assigned to the midnight
8 tour, I don't presently recall the year. However, I
9 was assigned for months on that tour to walk a foot
10 post.

11 Q Where was that foot post?

12 A Wherever they deemed it to be that night.

13 Q So would that foot post change from day to
14 day?

15 A I don't know about day to day, but it was
16 different areas that I was walking. I don't know if
17 it was day to day or week to week.

18 Q But the location was variable?

19 A Yes, basically variable, yeah. I remember
20 one time that it was on Union Avenue on the corner
21 when it was snowing out. That's an area that's not
22 heavily populated at night. It's not on the police
23 post. There are some foot posts for the day tours,
24 not on the midnights. But that's not in the police
25 post book at all. Kind of an off the track area.

1 ARAZ ALALI

2 I was told to stand on the corner of
3 Union Avenue while it was snowing out and not to
4 move from the corner. For no purpose.

5 Q Who ordered you to do that?

6 A That was Sergeant Jones and Sergeant
7 Gianatti.

8 Q And when did that occur?

9 A I don't have the dates, but when I was
10 assigned to the midnight tour.

11 Q What years were you assigned to the
12 midnight tour?

13 A I don't presently recall. It was early on
14 in my career.

15 Q Were you assigned to the midnight tour
16 during the years that you received standard
17 evaluations?

18 A I don't presently recall.

19 Q How long did you work the midnight tour?

20 A I don't presently recall, but I know the
21 incident that changed me. Walking the midnight tour
22 was the complaint -- supervisor complaint generated
23 by Sergeant Jones, which is a false complaint,
24 stating that I did not give him the reason for a car
25 stop. And then the second part of that complaint

ARAZ ALALI

the midnight tour?

A Right.

Q Can you estimate how long it's been since you've been on the midnight tour?

A It would be bad guess.

MR. LOVETT: Don't guess.

A I don't know.

Q Let's go on to subparagraph F. Indicates, "Forbidden for substantial periods of time to operate a police vehicle."

Does that relate to the circumstance you've already testified to about the civilian complaint from the FedEx driver, or does it relate to something else?

A That is -- for approximately the six month period of time that I stated earlier.

Q Okay. Is that the same period of time that you were assigned to be a dispatcher?

A Yes.

Q Does that relate to the civilian complaint that was filed by the FedEx driver?

A It depends what side of the story you get. If you get it from Fortunato or you get it from Commissioner Carroll. Conflicting stories on that.

1 ARAZ ALALI

2 Q Let's start with Commissioner Carroll.
3 What did he tell you?

4 A Stated it is because of a departmental
5 investigation.

6 Q And what did Lieutenant Fortunato tell
7 you?

8 A He did not have knowledge that it was
9 because of a departmental investigation.

10 Q And did Commissioner Carroll tell you
11 anything about it, other than what you already
12 testified to?

13 A No. Captain Gazzola also stated it was
14 because of the departmental investigation.

15 Q And did Captain Gazzola tell you anything
16 else about it, other than what you just testified
17 to?

18 A Well, besides issuing a standing order of
19 performing functions that are listed in this
20 complaint.

21 Q Did Lieutenant Fortunato tell you
22 anything, other than what you've already testified
23 to, about this -- about your being barred from
24 operating a police vehicle?

25 A No.

1 ARAZ ALALI

2 Q Did you ever communicate with members of
3 the public while you were dispatcher?

4 A No, I was barred from answering the phone.

5 Q Aside from the time that you were assigned
6 to be a dispatcher, have you ever been barred from
7 interacting with members of the public while you
8 were on duty?

9 A I don't presently recall.

10 Q Let's move down to subparagraph I where it
11 says, "Subjected repeatedly to investigations of
12 supposed wrongdoing under circumstances where no
13 wrongdoing occurred and defendant knew that no
14 wrongdoing had occurred." Do you see that?

15 A Yes.

16 Q Could you explain what investigations
17 you're referencing in that paragraph?

18 A There were many. The most recent
19 investigation was when I was put in the radio room
20 as a civilian, reduced to a civilian dispatcher, of
21 the wrongful arrest on the FedEx driver, when in
22 fact the captain, police commissioner, knew that
23 there was absolutely no violation of the law on my
24 part. The defendant violated the law. I had
25 absolutely done nothing wrong.

1 ARAZ ALALI

2 However, they investigated that for
3 over six months. Like I stated to you, Lieutenant
4 Fortunato stated that the complaint of the FedEx
5 driver had no merit and it was unfounded.

6 The other instance I gave you was of
7 Sergeant Jones of what I stated earlier about not
8 calling out a traffic stop and not handing in a
9 reason of why I conducted a traffic stop. Captain
10 knew of that incident and took back the complaint.

11 And I remember when I asked the
12 Captain if I had -- there was an out-and-out lie,
13 that if Sergeant Jones had perjured himself and put
14 it on paper, what would be the consequences. He
15 didn't answer. I stated what happened if I had
16 perjured myself. Kind of smiled at that, didn't
17 give an answer.

18 There was other investigations but
19 these are the investigations that we're talking
20 about right now.

21 Q You mentioned the investigation relating
22 to the FedEx driver and you mentioned the one
23 concerning Sergeant Jones' allegations about failure
24 to call out a stop.

25 A And failure to hand him the reason for the

1 ARAZ ALALI

2 A Eight to four.

3 Q And is it your recollection that after you
4 made that arrest you were assigned to a walking
5 post, but on the eight to four tour of duty?

6 A I believe so.

7 Q Were you assigned to a walking post on the
8 eight to four tour of duty before you made the
9 arrest?

10 A Yes, as a junior officer during the
11 holiday period. Other times of the year, if I was a
12 junior officer I would walk along with the other
13 junior officers.

14 Q And are foot posts common on the eight to
15 four tour of duty?

16 A At times.

17 Q Are foot posts customary on the eight to
18 four tour of duty?

19 A If there are enough manpower, I believe
20 so.

21 Q Other than the incidents you just
22 mentioned of the FedEx driver, the incident with
23 Sergeant Jones, the verbal reprimand from Lieutenant
24 Fortunato and the criminal possession of a forged
25 instrument arrest involving Lieutenant Shulman, can

1 ARAZ ALALI

2 you think of any other investigations that you were
3 subjected to concerning matters where the defendants
4 in this case knew that you had done nothing wrong?

5 A Yes. Investigation conducted by Captain
6 Gazzola where he stated that on the assignment that
7 I was given at North Avenue detail, that I was
8 writing summonses off post, off the area. The area
9 had been changed and modified from time to time.
10 The type of summonses that were being dispensed were
11 also modified at Captain Gazzola's discretion from
12 time to time.

13 Another investigation by Captain
14 Gazzola regarding the use of a camera that was put
15 into the car against my will, and notified him and
16 made him aware that the camera in a roll call with
17 other police officers present where he was asking
18 for feedback on the particular type of camera, which
19 is a Coband camera, and I told him that it logs off
20 frequently and doesn't work. I also gave him a
21 written memo on that as well as going in there with
22 Edward Hayes on at least two occasions, telling him
23 in his office the camera logs off.

24 They sent the camera out to repair,
25 police repair in Mamaroneck. Came back, it was

1 ARAZ ALALI

2 still defective. However, I was written up for not
3 using the in-car camera after they knew that the
4 camera was defective.

5 After being notified both verbally,
6 numerous times verbally, with other police officers
7 present, myself and Edward Hayes, and also with
8 written correspondence indicating that.

9 Q Now, in reference to the contention that
10 you were writing summonses in areas that were off
11 your assigned post, is that the subject of the
12 pending disciplinary hearing or is it a different
13 matter?

14 A No, it is.

15 Q It is. Okay. And in reference to the
16 alleged failure to use a camera, is that the subject
17 of a pending disciplinary hearing?

18 A Yes.

19 Q Now, are there any other instances where
20 you believe you were investigated by -- for doing
21 things that the defendants knew you had not done
22 wrong?

23 A Yes. The New Rochelle High School
24 crossing, the assignment that you cross at times is
25 referred to as crossing, at times referred to as

C E R T I F I C A T I O N

I, SUSIE CABANAS-DIAZ, a Court Reporter
and Notary Public within and for the State
of New York, do hereby certify:

That the witness whose deposition
is herein before set forth, was duly sworn
by me, and that the within transcript is a
true record of the testimony given by such
witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this *2nd* day of *July*, 2007.

Susie Cabanas-Diaz

SUSIE CABANAS-DIAZ

ORIGINAL

121

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 - - - - -x
4 ARAZ ALALI,

5 Plaintiff,

6 -against-

INDEX NO.

07 CIV 1296

7 ROBERT GAZZOLA, individually, PATRICK J. CARROLL,
8 individually, and THE CITY OF NEW ROCHELLE, New York,

9 Defendants.
10 - - - - -x

11 July 10, 2007

12 12:00 p.m.

13 CONTINUED EXAMINATION BEFORE TRIAL of
14 Plaintiff, ARAZ ALALI, taken pursuant to Notice, held
15 at the offices of Wilson, Elser 3 Gannett Drive,
16 White Plains, New York, before a Notary Public within
17 and for the State of New York.
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20
21

22 * * *
23
24
25

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1
2 IT IS HEREBY STIPULATED AND AGREED by and between
3 counsel for the respective parties herein:

4 All rights provided by the C.P.L.R., and
5 Part 221 of the Uniform Rules for the Conduct of
6 Depositions, including the right to object to any
7 question, except as to form, or to move to strike any
8 testimony at this examination is reserved; and in
9 addition, the failure to object to any question or to
10 move to strike any testimony at this examination
11 shall not be a bar or waiver to make such motion at,
12 and is reserved to, the trial of this action.

13 This deposition may be sworn to by the
14 witness being examined herein before a Notary Public
15 other than the Notary Public before whom this
16 examination was begun, but failure to do so or to
17 return the original of this deposition to counsel,
18 shall not be deemed a waiver of the rights provided
19 by Rules 3116 and 3117 of the C.P.L.R., and shall be
20 controlled thereby; and

21 The filing of the original deposition are
22 waived.
23
24
25

1 ARAZ ALALI

2 law, I was reduced to writing maybe one type of
3 violation and ignoring all other violations.

4 Q And what kinds of moving violations --

5 A And also primarily was just to be
6 issuing parking tickets, not moving violations.
7 That's what they explained to me.

8 Q Did you issue summonses for moving
9 violations when you had this assignment?

10 A Absolutely. When there was a
11 violations in my presence, I did do such.

12 Q You mentioned that you were using a
13 camera car, could you explain what you meant by that?

14 A It was, prior to being put on this
15 assignment, Captain Gazzola had designated one of the
16 cars that was not used for patrol and had it fitted
17 with a camera, with live audio and also a camera that
18 would record a minute before any type of enforcement.

19 I clearly stated to them that I was the
20 only member of patrol at the time using such a car,
21 actually I was not even in patrol, I was reduced, as
22 I said to you, to issuing parking tickets. I told
23 them I felt very uncomfortable being in that type of
24 car and I had to be on camera at all times.

25 It was definitely the idea of Captain

1 ARAZ ALALI

2 Gazzola. He had went to great lengths to get this
3 car, which was car number 18, fitted just for my
4 purposes only.

5 Q Am I correct that the stated purpose of
6 the assignment was to improve the flow of traffic on
7 North Avenue?

8 A That's what was relayed to me, but I
9 clearly know it was to humiliate and degrade me.

10 Q What was your understanding as to how
11 the issuance of parking tickets would improve the
12 flow of traffic?

13 A North Avenue is, you know, is congested
14 due to construction, due to the fact that the streets
15 are narrow. There's not much parking.

16 I don't believe that any of the
17 summonses that I had issued, that I was ordered to
18 issue, did improve the traffic flow on North Avenue.

19 There's traffic, as we speak, now on
20 North Avenue. There continues to be traffic on North
21 Avenue. It's just that it is structural.

22 It's not like the streets in White
23 Plains, where there's wide streets. They're very
24 narrow, so I don't believe my assignment enhanced the
25 flow of traffic on North Avenue.

1 ARAZ ALALI

2 Q Was part of your assignment to issue
3 tickets for double parking?

4 A At one point they said that to issue
5 tickets that would increase the flow of traffic and
6 at a later time they narrowed that down as well as to
7 specific type of parking ticket to the issue, such as
8 double parking tickets.

9 Q Would the elimination of double parking
10 have an impact on the flow of traffic?

11 A It could. I believe it could.

12 Q On how many occasions did you discuss
13 this assignment with the commissioner before you
14 actually undertook the assignment?

15 A I don't presently recall.

16 Q Did the commissioner ask you if you
17 would be interested in having the assignment?

18 A Actually, I was told that I would have
19 the assignment.

20 Q Can you tell me, in words or substance,
21 what the commissioner said to you when you were
22 informed about the assignment?

23 A I don't recall the words or substance
24 presently at this time. I was just told that I would
25 be in a camera car for the purposes of traffic flow

1 ARAZ ALALI

2 issuing parking tickets.

3 Q Do you recall if you discussed this
4 with the commissioner more than once before starting
5 the assignment?

6 A I don't presently recall.

7 Q I'd like to move down to Paragraph 9,
8 Subparagraph A. Do you see where it says, on
9 January 7, 2007, advised Carroll that he was the
10 subject of persecution based on heritage?

11 A Yes.

12 Q Did you actually have that conversation
13 with the commissioner?

14 A Yes and also memos regarding exactly
15 what was stated in 9 A.

16 Q Did you meet with the commissioner on
17 January 7th?

18 A I don't presently recall.

19 Q Did you send him a memo on January 7th?

20 A I don't presently recall.

21 Q Did you meet with the commissioner on
22 or about January 7th?

23 A I had met with the commissioner to
24 expressly tell them that I'm being persecuted, solely
25 based upon my heritage, as well as memos. I don't

1 ARAZ ALALI

2 A Yes.

3 Q Is that a photocopy of your signature?

4 A Yes.

5 Q This does appear to be an application
6 that you filled out for employment with the City of
7 New Rochelle Police Department?

8 A I believe so.

9 Q I'm going to show you what's been
10 pre-marked as Defendants' JJ for identification and
11 ask you if you can identify that document?

12 A Yes.

13 Q What is it?

14 A A letter from Commissioner Carroll
15 stating that I have been selected for employment by
16 New Rochelle Police Department.

17 Q I'm going to show you what's been
18 pre-marked as Defendants' KK for identification and
19 ask you if you can identify that document?

20 A It's a letter from Commissioner
21 Carroll, stating that -- my acceptance to the New
22 Rochelle Police Department.

23 Q I'm going to go show you what's been
24 pre-marked as Defendants' LL for identification and
25 ask you if you can identify that document?

1 ARAZ ALALI

2 you required to review the administrative manual of
3 the New Rochelle Police Department?

4 A I believe so.

5 Q And have you done that?

6 A From time to time.

7 Q I'm going to show you what's been
8 pre-marked as Defendants' RR for identification and
9 ask you whether you recognize that document as
10 representing portions of the administrative manual?

11 A Yes.

12 Q To the best of your knowledge, does
13 this document represents portion of the
14 administrative manual?

15 A Yes.

16 Q Specifically, referring to Paragraph
17 13, have you ever had occasion to review these
18 sections that relate to the criteria that go into
19 performance evaluations?

20 A Yes.

21 Q Based upon your review of the criteria,
22 was it your understanding that the evaluations
23 include both qualitative as well as quantitative
24 performance?

25 A Yes.

C E R T I F I C A T E

STATE OF NEW YORK)

: SS:

COUNTY OF ROCKLAND)

I, ESTHER KATZ, a Shorthand Reporter and Notary
Public within and for the State of New York, do
hereby certify:


THAT ARAZ ALALI, the witness whose testimony is
hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record of
the testimony given by said witness.

I further certify that I am not related, either
by blood or marriage, to any of the parties to this
action; and

THAT I am in no way interested in the outcome of
this matter.

Dated: July 30, 2007



ESTHER KATZ

Command Discipline Report New Rochelle Police Department

Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD/ 3 rd Tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On 1 Aug 02 at 1724hrs. P.O. Araz Alali was operating RC #2 on Drake Ave. responding, code 3, to a call for service. P.O. Alali entered Nautilus Pl., traveling the wrong way on the one way street in order to make a u-turn and while doing so became involved in an M.V.A. with another vehicle.

By his actions, P.O. Alali violated section 8.2 of this Departments Rules & Regulations.

Finding	Disciplinary Action Recommended
Sustained	Letter of Reprimand
Signature of Division Commander	Date
<i>Capt. Robert Gazzola</i>	20 SEP 02

To Be Completed By Officer Charged:

I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

(☒) Accept the finding and the proposed disciplinary action.

P.O. Alali) Decline to accept any disciplinary action without a statutory hearing.
20 SEPT 02

Officer's Signature	Date	Witnessed by:
<i>Capt. Robert Gazzola</i>		<i>Capt. Robert Gazzola</i>

CO 1A



City Of New Rochelle
New York

Interdepartmental communication

To: P.O.  Araz Alali

From: Captain Robert Gazzola 

Subject: Letter of Reprimand

Date: 20 Sept. 02

This letter of Reprimand is issued in connection with Command Discipline Number 56/02, which was served upon you on 20 Sep 02 and accepted by you on 20 Sep 02.

You are hereby formally reprimanded for the conduct stated in the above referenced Command Discipline. Failing to operate a department vehicle in a careful and prudent manner and in a manner as to avoid injuries to persons and damage to property interferes with the efficient and orderly operation of the Police Department and demonstrates a lack of professionalism.

You are hereby advised that any further misconduct on your part including, but not limited to, the conduct described above, will result in the imposition of discipline as provided for in Chapter 6 of the New Rochelle Police Departments Manual of Procedure, and may lead to your discharge from employment.

cc: P.O. Joseph Poggioli, P.B.A. President
Disciplinary file

**New Rochelle Police Department
Rules and Regulations**

Chapter: Eight

Subject: **Use of Department Vehicles**

Date Effective: 01 Jan 97

Page 1 of 2

Date Revised: 10 Jan 02

- 8.1. Members of the Department will be held responsible for the proper maintenance of assigned department vehicles. (Proper maintenance includes, but is not limited to, checking the vehicle's oil level at the start of each tour of duty or at any time when a member accepts assignment of another vehicle.) Vehicles will be kept clean and free from damage. Equipment assigned to the vehicle will be kept clean and in working condition.
- 8.2. Members of the Department will operate department vehicles in a careful and prudent manner in accordance with all Vehicle and Traffic laws and department procedures. Members of the Department will, at all times, give the highest priority to the safety and welfare of the general public when operating a department vehicle and will operate all vehicles in such a manner as to avoid injuries to persons or damage to property.
- 8.3. The use of a department vehicle as an emergency vehicle is only permitted in situations where the operator of the vehicle is responding to an actual emergency.
- 8.4. A member of the Department will inspect a vehicle and its equipment for damage prior to taking custody of the vehicle. If any unreported damage to the vehicle is discovered or equipment is found missing, the member will immediately advise his supervisor. The vehicle will not be put into use until the supervisor has inspected the vehicle and initiated an investigation to ascertain the origin of the damage or the location of the missing property.
- 8.5. Supervisory personnel assigned to investigate accidents involving department vehicles, incidents involving unreported damage to department vehicles or incidents involving equipment missing from vehicles will submit their findings and recommendations in a PD 37 to their Division Commander. This report will be completed prior to the conclusion of the supervisor's tour of duty.
- 8.6. A member of the Department will, upon discovering any mechanical defect or problem with a department vehicle, file a D.P.W. 9 and advise his immediate supervisor of the vehicle's condition and need for repair.
- 8.7. No member of the Department will utilize any vehicle other than a department vehicle in the performance of an official duty assignment. (Exceptions to this rule are court appearances, schools, seminars, Special Detail assignments, and any other situation specified by the Police Commissioner or his designee. All exceptions must have prior approval.)
- 8.8. Members of the Department are prohibited from leaving the City of New Rochelle in police vehicles unless on official business. Members will notify the Desk Officer or police dispatcher when leaving the city and upon returning to the city. This information will be entered in the PD 29.
- 8.9. Members of the Department will not double park department vehicles unless doing so is incidental to the performance of official police duty and no other reasonable alternative exists.
- 8.10. Department vehicles will not be used to push, tow, or jump-start other vehicles except in extreme emergency situations.

Command Discipline Report **New Rochelle Police Department**

Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD/ 1 st tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On 29 Oct 02 at 0130hrs, P.O. Araz Alali was detailed to Pelham Rd. & Pelhamdale Ave. to provide an escort for a large piece of equipment being transported by Con Edison. At 0205hrs P.O. Alali contact CSO Schena in the radio room and advised that Con Edison had not appeared as yet. Sgt. Giannotti advised Alali, through Schena, to remain at the location until 0230hrs. At 0215hrs. Sgt. Giannotti observed Alali entering the front door at the Mirage Diner at 690 North Ave.. An investigation by Sgt. Giannotti revealed that Alali had not requested, nor had he been granted, permission to leave his assigned post at Pelham Rd. & Pelhamdale Ave..

By his actions P.O. Alali violated section 1.5 of this Department's Rules & Regulations.

Finding	Disciplinary Action Recommended
Sustained	Letter of Reprimand
Signature of Division Commander	Date
Capt. ROBERT GAZZOLA. <i>[Signature]</i>	26 Dec 2002
To Be Completed By Officer Charged:	

I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

☒ **Accept** the finding and the proposed disciplinary action.

☐ **Decline** to accept any disciplinary action without a statutory hearing.

Officer's Signature	Date	Witnessed by:
<i>[Signature]</i> CO 1A	26 DEC 02	<i>[Signature]</i>



**New Rochelle Police Department
Rules and Regulations**

Chapter:	One	Date Effective:	01 Jan 97
Subject:	Performance Standards & Related Conduct	Page 1 of 6	Date Revised: 22 Mar 02

- 1.1. All members of the Department will adhere to all established departmental policies and procedures.
- 1.2. Members of the Department will perform their assigned duties in a competent manner. Members are accountable for their actions and cannot avoid the responsibilities of their positions. Included within incompetent performance but not limited are the following:
 - a) Unwillingness to perform assigned tasks
 - b) Failure to conform to work standards established for the member's rank or position
 - c) Failure to take appropriate action at an incident needing police attention
 - d) Failure to prepare legible and coherent reports
 - e) Evaluations showing substandard performance
- 1.3. Members of the Department will not engage in any activity or personal business that would cause them to neglect or be inattentive to their duties.
- 1.4. Members of the Department assigned to duty outside of headquarters will not engage in conversations with other members of the Department for any other purpose than the exchange of information relative to the business of the Department. All such conversations will be as brief as possible.
- 1.5. Members of the Department assigned to motorized patrol, foot patrol, or a fixed post will not leave their designated area of patrol for any reason other than police necessity, personal necessity or meal period. Prior to leaving an assignment for personal necessity or meal period supervisory approval will be obtained and a memo book entry made. Meal periods are assigned on the work sheet and officers are allowed 30 minutes for meal. During times of heavy activity, meal periods may be readjusted or canceled on the authority of the Tour commander.
- 1.6. Members of the Department will not walk foot patrol posts together unless authorized by competent authority. Motorized patrols will not congregate unless authorized by competent authority or in furtherance of authorized police activities.
- 1.7. Members of the Department will aggressively patrol the area of their assigned responsibility and will note, report and investigate all unusual events and conditions. Failure to detect unusual events and conditions will be deemed neglect of duty.
- 1.8. Members of the Department will promptly respond to all assigned calls for service.
- 1.9. Members of the Department are responsible for properly and promptly answering the radio.
- 1.10. The standard ten (10) codes will be used in dispatch procedures.
- 1.11. Members of the Department will not make unnecessary or improper radio transmissions. Members will always identify themselves when transmitting over the radio.
- 1.12. All calls for service will receive a CAD entry.

Command Discipline Report **New Rochelle Police Department**

Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD/2 nd tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On 23 Dec 02, at 0750hrs. , Sgt. Giannotti saw P.O. Alali leaving Headquarters to begin his tour of duty without his uniform hat. When questioned by Sgt. Giannotti, P.O. Alali stated his hat was in the locker room. At 0805hrs. Headquarters attempted to raise P.O. Alali on the radio eight times without a response. Sgt. Giannotti located P.O. Alali exiting the Mirage Diner with a package. When questioned, P.O. Alali stated he did not hear Headquarters calling him. Sgt. Giannotti checked P.O. Alali's portable radio and found it to be in proper working order. Sgt. Giannotti then requested P.O. Alali produce his uniform hat. P.O. Alali did not have his hat on his person or in his vehicle.

By his actions, P.O. Alali violated sections 1.9 & 9.11 of this Department's Rules & Regulations

Finding	Disciplinary Action Recommended
Sustained	Loss of one (1) Leave Day
Signature of Division Commander	Date
CAPT ROBERT GAZZOLA <i>[Signature]</i>	13 JAN 2003
To Be Completed By Officer Charged:	

I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

(☒) **Accept** the finding and the proposed disciplinary action.

(☐) **Decline** to accept any disciplinary action without a statutory hearing.

Officer's Signature	Date	Witnessed by:
PO <i>[Signature]</i>	13 JAN 03	<i>[Signature]</i>
CO 1A		

HP
1-28-03



City Of New Rochelle
New York

Interdepartmental communication

To: Police Officer Araz Alali

From: Captain Robert Gazzola

Subject: Proposed Disciplinary Action

Date: 6 Jan 03

- 1) Attached hereto please find a copy of charges against you alleging misconduct on your part.
- 2) A penalty of a Loss of one (1) Leave Day is proposed.
- 3) You have eight (8) days in which to answer this communication. Such answer shall be on the form attached or in similar form and must be in my office no later than _____.

Should you fail to respond, such failure shall be construed as not contesting the proposed disciplinary action and accepting the proposed penalty therefore without a hearing.

- 4) You have the right to be represented by Counsel and / or other representative of your choosing.

**New Rochelle Police Department
Rules and Regulations**

Chapter: One
Subject: **Performance Standards & Related Conduct** Page 1 of 6 Date Effective: 01 Jan 97
Date Revised: 22 Mar 02

- 1.1. All members of the Department will adhere to all established departmental policies and procedures.
- 1.2. Members of the Department will perform their assigned duties in a competent manner. Members are accountable for their actions and cannot avoid the responsibilities of their positions. Included within incompetent performance but not limited are the following:
 - a) Unwillingness to perform assigned tasks
 - b) Failure to conform to work standards established for the member's rank or position
 - c) Failure to take appropriate action at an incident needing police attention
 - d) Failure to prepare legible and coherent reports
 - e) Evaluations showing substandard performance
- 1.3. Members of the Department will not engage in any activity or personal business that would cause them to neglect or be inattentive to their duties.
- 1.4. Members of the Department assigned to duty outside of headquarters will not engage in conversations with other members of the Department for any other purpose than the exchange of information relative to the business of the Department. All such conversations will be as brief as possible.
- 1.5. Members of the Department assigned to motorized patrol, foot patrol, or a fixed post will not leave their designated area of patrol for any reason other than police necessity, personal necessity or meal period. Prior to leaving an assignment for personal necessity or meal period supervisory approval will be obtained and a memo book entry made. Meal periods are assigned on the work sheet and officers are allowed 30 minutes for meal. During times of heavy activity, meal periods may be readjusted or canceled on the authority of the Tour commander.
- 1.6. Members of the Department will not walk foot patrol posts together unless authorized by competent authority. Motorized patrols will not congregate unless authorized by competent authority or in furtherance of authorized police activities.
- 1.7. Members of the Department will aggressively patrol the area of their assigned responsibility and will note, report and investigate all unusual events and conditions. Failure to detect unusual events and conditions will be deemed neglect of duty.
- 1.8. Members of the Department will promptly respond to all assigned calls for service.
- 1.9. Members of the Department are responsible for properly and promptly answering the radio.
- 1.10. The standard ten (10) codes will be used in dispatch procedures.
- 1.11. Members of the Department will not make unnecessary or improper radio transmissions. Members will always identify themselves when transmitting over the radio.
- 1.12. All calls for service will receive a CAD entry.

Command Discipline Report **New Rochelle Police Department**

Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD/2 nd tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On January 19, 2005 at 1310 hrs, P.O. Araz Alali violated Chapter 2, Article 2.03, Section 3.5 of this Department's Manual of Procedure by being discourteous and unprofessional to a motorist during a traffic stop.

Finding	Disciplinary Action Recommended
Sustained	Letter of Reprimand
Signature of Division Commander	Date
<i>Capt. Robert Gazzola</i>	<i>3/10/05</i>

To Be Completed By Officer Charged:

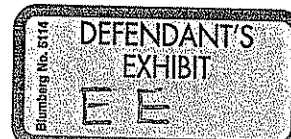
I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

(☒) Accept the finding and the proposed disciplinary action.

(☐) Decline to accept any disciplinary action without a statutory hearing.

Officer's Signature	Date	Witnessed by:
<i>[Signature]</i>	<i>03/10/05</i>	<i>[Signature]</i>

CO 1A



City Of New Rochelle
New York

Interdepartmental communication

To: Police Officer Araz Alali

From: Captain Robert Gazzola

Subject: Letter of Reprimand

Date: 11 Feb 05

This letter of Reprimand is issued in connection with Command Discipline Number 6/05, which was served upon you on 3/10/05 and accepted by you on 3/10/05.

You are hereby formally reprimanded for the conduct stated in the above referenced Command Discipline. Failing to conduct yourself in a courteous and professional manner during a traffic stop interferes with the efficient and orderly operation of the Police Department.

You are hereby advised that any further misconduct on your part including, but not limited to, the conduct described above, will result in the imposition of discipline as provided for in Chapter 6 of the New Rochelle Police Departments Manual of Procedure and Article 75 of the New York State Civil Service Law.

cc: Police Officer Edward Hayes, P.B.A. President
Disciplinary file

2007

City Of New Rochelle
New York

Interdepartmental communication

To: Police Officer Araz Alali

From: Captain Robert Gazzola

Subject: Proposed Disciplinary Action

Date: 15 Feb 05

- 1) Attached hereto please find a copy of charges against you alleging misconduct on your part.
- 2) A penalty of a Letter of Reprimand is proposed.
- 3) You have eight (8) days in which to answer this communication. Such answer shall be on the form attached or in similar form and must be in my office no later than MARCH 11, 2005

Should you fail to respond, such failure shall be construed as not contesting the proposed disciplinary action and accepting the proposed penalty therefore without a hearing.

- 4) You have the right to be represented by Counsel and / or other representative of your choosing.

**New Rochelle Police Department
Manual of Procedure**

Subject: **Uniform Traffic Ticket and Enforcement Policy**

Chapter: Two

Date Effective: 01 Jan 92

Article: 2.03

Page 1 of 3

Date Revised: 16 Mar 98

POLICY: It is the policy of this Department to strictly enforce the Vehicle and Traffic Law.

DEFINITION

Uniform Traffic Ticket: The Uniform Traffic Ticket is issued by the State of New York and conforms to standards set by the Department of Motor Vehicles. The Uniform Traffic Ticket, commonly referred to as a "Summons", is issued in books of twenty (20). Each summons contains the original plus four copies. The motorist's copy (Yellow) is the fourth copy and will be issued to the motorist. All other copies will be placed in the summons safe at the police desk at the end of the tour.

All coded information required on the summons is readily found on the cardboard cover sheet of the summons book. Listed on the backside of the cover sheet is a log individually listing summons by date of issuance. The Department of Motor Vehicles does not mandate that this log be filled out, thus its use is optional.

PROCEDURE

1. Books of summonses will be dispensed by the Records Unit, Monday through Friday from 0830 to 1630 hours. It will be the responsibility of each individual officer to be properly equipped with a sufficient supply of summonses on each tour. Officers are responsible for verifying that they have each summons assigned to them.
2. Summonses will be written according to the following guidelines:
 - 2.1 A ball-point pen with black or dark blue ink will be used to fill out the summons
 - 2.2 Officers will legibly print all required information on the face of the summons
 - 2.3 Summonses will be accurately and completely filled out; (Improperly written summonses are returned by the Department of Motor Vehicles)
 - 2.4 The verbal description of the violation must coincide with the statutory section and subsection of the Vehicle and Traffic Law cited
3. When conducting a traffic stop, officers will conduct themselves in the following manner:
 - 3.1 A traffic stop will only be made when the officer reasonably suspects that the motorist has committed a traffic offense. Emergency lights will be activated, and, if necessary to attract the violator's attention, the siren will be activated. In instances where the officer feels his safety is at risk, he may make initial verbal contact with the operator by using the PA system. (Use of the PA system should not be used for routine traffic stops.)
 - 3.2 Whenever an officer makes a vehicle stop, he will notify the police dispatcher and advise him of his location, the reason for the stop, and the plate number of the vehicle stopped. This notification must be made prior to exiting the police vehicle.
 - 3.3 After exiting the police vehicle, the officer should carefully approach the violator's vehicle. The officer should stay on the driver's side of the vehicle and not walk between his vehicle and the violator's vehicle. A visual inspection of the rear seat of the violator's vehicle should be made before approaching the operator. The officer should then take up a position at the rear of the driver's door post and initiate contact with the vehicle operator.

**New Rochelle Police Department
Manual of Procedure**

Subject: **Uniform Traffic Ticket and Enforcement Policy**

Chapter: Two

Article: 2.03

Page 2 of 3

Date Effective: 01 Jan 92

Date Revised: 16 Mar 98

-
- 3.4 The officer will advise the vehicle operator of the reason for the stop and ask him for his driver's license, registration, and insurance card. The officer will ask the violator to hand him the requested documents and will not reach into the vehicle to accept them. (For safety reasons, it is important to keep the vehicle operator and any passengers at a physical disadvantage.)
 - 3.5 An officer will be courteous and professional in his conversation with the violator. He will not scold or lecture the violator. Verbal Judo will be employed by the officer. The objective of traffic enforcement is to improve the driving performance of the motoring public. The focus of the stop should be the offense committed by the violator. Conduct on the officer's part that is less than professional suggests that the offense committed was not against the Vehicle and Traffic Law but was a personal affront to the officer and, as such, may lead the violator to feel that he is a victim and not an offender.
 - 3.6 When a ticket is issued, the officer will explain the violation to the motorist and will tell the motorist when the ticket is returnable to the court. The motorist will also be given a schedule of fines.
 - 3.7 After completing the stop the officer should not leave the scene until the violator has left.
 4. Unlicensed motorists who cannot provide positive identification will be arrested and required to post bail.
 5. Motorists who commit misdemeanors defined in the VTL will be arrested and required to post a minimum bail of \$100.00. In those situations where an arrest is not practical (i.e. motorist hospitalized) or there are extenuating circumstances, a supervisor may authorize the issuance of a summons in lieu of an arrest. This exception does not apply to DWI or DWAI offenses.
 6. Whenever a motorist is arrested and charged with a VTL offense, the arrest number will be recorded in the upper right hand corner of the summons on the line above the box for the First Name. This number will be preceded by "NRPD."
 7. Officers will only check the box marked commercial vehicle located next to the date of birth box if the vehicle is a commercial vehicle as defined in (VTL 501).
 8. Officers will complete the Section marked "Officer's Notes" prior to turning in the summons. Accurate notes will assist the officer who may have to later testify at trial.
 9. The minimum return date for a summons other than DWI or DWAI is two weeks.
 10. No motorist will be allowed to continue to drive a motor vehicle once the officer determines that the motorist is not properly licensed to drive or properly licensed to operate the class of vehicle the motorist is operating. In this situation the vehicle will either be released to a properly licensed driver or impounded.
 11. Officers must record the six digit US Department of Transportation number (USDOT) of the responsible motor carrier responsible for the vehicle's load on tickets issued to drivers of commercial motor vehicles. A space is provided to record this number on the left hand side of the uniform traffic ticket adjacent to the affirmation. If an officer is unable to locate the USDOT# he will enter the default number of six zeroes. The USDOT# can be located on the side of the vehicle, rental/lease agreements, driver's log, or shipping papers.

**New Rochelle Police Department
Manual of Procedure**

Subject: **Uniform Traffic Ticket and Enforcement Policy**

Chapter: Two

Date Effective: 01 Jan 92

Article: 2.03

Page 3 of 3

Date Revised: 16 Mar 98

12. If a motorist is issued a summons for a felony VTL charge, the officer will not issue the motorist copy. Instead he will submit all copies of the summons to the court and file a felony complaint.
13. If an officer voids a summons, he will advise his supervisor and submit the voided summons along with a PD 37A explaining the reason for the void to the Special Operations Unit commander or in his absence, the traffic sergeant. The PD37A will be co-signed by the officer's supervisor.
14. When a plainclothes officer in an unmarked vehicle effects a routine traffic stop, he will request that a uniformed officer in a marked radio car respond to the scene. This will eliminate any questions about the identity of a plain clothes officer.
15. DWI checkpoints will not be conducted without the authorization of the tour commander, PACT commander or Special Operations Unit supervisors. A supervisor will be present at all times during the checkpoint. Cars will not be stopped in a random manner. A predetermined method, every third car for example, will be used.

Command Discipline Report **New Rochelle Police Department**

Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD/ 2 nd tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On April 14, 2005 P.O. Araz Alali was assigned to sector 4 in car #4. At approximately 0820 hrs Sgt. George Rosenbergen observed radio car #4, in sector one, parked directly in front of a "No Parking Anytime" sign at 96 Main Street, Dunkin Donuts. P.O. Alali has been advised by second tour supervisors, at least twice in the past three months, not to park his radio car illegally unless on an emergency call as this reflects poorly on the officer as well as the Department. P.O. Alali was not at this location on an emergency call for service.

By his actions P.O. Alali violated sections 1.5 & 2.3 of this Department's Rules & Regulations.

Finding	Disciplinary Action Recommended
Sustained	Loss of Two (2) Leave Days
Signature of Division Commander	Date
<i>Cpt. [Signature]</i>	6/29/05

To Be Completed By Officer Charged:

I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

(☒) Accept the finding and the proposed disciplinary action.

P.O. [Signature]) Decline to accept any disciplinary action without a statutory hearing.

Officer's Signature

Date

Witnessed by:

Capt. Robert Gazzola

CO 1A



**New Rochelle Police Department
Rules and Regulations**

Chapter: Two

Subject: **Personal and Professional Conduct**

Page 1 of 5

Date Effective: 01 Jan 97

Date Revised: 01 Jun 02

- 2.1. Members of the Department shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department or that which impairs the operation or efficiency of the Department or officer.
- 2.2. Members of the Department shall maintain a level of moral conduct in their personal and business affairs, which is in keeping with the highest standards of the law enforcement profession. Officers shall not participate in any conduct involving moral turpitude that impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.
- 2.3. Members of the Department shall obey all laws of the United States, the State of New York and the City of New Rochelle. A violation of any law will be considered a departmental disciplinary offense as well as an illegal act subjecting the violator to criminal penalties.
- 2.4. All members of the Department shall be courteous and tactful in the performance of their duties and shall demonstrate patience and discretion when dealing with the public.
- 2.5. In the performance of their duty, members of the Department shall not engage in any type of activity which expresses prejudice concerning race, sex, religion, politics, national origin, lifestyle or similar personal characteristics.
- 2.6. No member of the Department shall harass any other member of the Department or any member of the public. Sexual harassment in the workplace is illegal, and all employees are forbidden from engaging in such activity. No member of the Department shall make any unwarranted sexual advances toward any other member of the Department or member of the public. Sexual advances in the workplace can be defined as any physical, verbal or non-verbal behavior (gestures, displaying pornographic objects, pictures etc.,) that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Supervisory officers shall not use their official authority to make sexual advances toward subordinate personnel.
- 2.7. Supervisory personnel will take proper disciplinary action when and where it is evident that members of the Department, under their command, are engaging in conduct characterized as discourteous, prejudicial, or harassing. In all instances, notification to the appropriate Division Commander will be made.
- 2.8. Conduct detrimental to the good order, efficiency or discipline of the Department, though not specifically provided for in these Rules and Regulations, shall be prohibited. Members found guilty thereof shall be punished in a manner deemed appropriate by the Police Commissioner.
- 2.9. Sworn members of the Department shall be fit for and subject to duty at all times except when on sick report.
- 2.10. No member of the Department shall use or possess marijuana or illegal drugs.

Command Discipline Report
New Rochelle Police Department

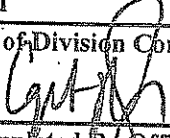
Officer's Name	Rank	Employee Number	Assignment
Araz Alali	Police Officer	9551	PSD / 2 nd tour

Investigation has been completed concerning the violation charged herein. The finding and the disciplinary action recommended are indicated below. You may accept the finding and the proposed disciplinary action or decline to accept the finding and the proposed disciplinary action in lieu of a statutory hearing on written charges before a hearing officer.

Summary of Investigation and Disposition of Complaint:

On June 15, 2006 at approximately 1220 hrs P.O. Alali responded to Pintard Ave from Pershing Square to assist other officers who had requested assistance making an arrest. While responding to Main Street and Pintard Avenue P.O. Alali proceeded through the red light at the intersection of Huguenot Street & Division Street at what appeared to be a high rate of speed without first slowing down. P.O. Alali then drove up onto the sidewalk IFO 330 Huguenot Street, which is at the intersection of Huguenot Street & Centre Avenue. It appeared that P.O. Alali could have gotten through the intersection without driving on the sidewalk. P.O. Alali's unsafe driving was compounded by the fact that he and the other responding units were advised twice by the officers on the scene that the incident was under control and the road supervisor advised that anyone not on the scene should disregard and resume patrol. All these transmissions were made before P.O. Alali reached the intersection of Huguenot Street & Division Street but P.O. Alali disregarded them and proceeded anyway.

By his actions P.O. Alali violated section 8.2 of this Department's Rules & Regulations.

Finding	Disciplinary Action Recommended
Sustained	Loss of one (1) leave day
Signature of Division Commander	Date
	8/29/06

To Be Completed By Officer Charged:

I understand that I do not have to accept the findings and the disciplinary action recommended by my commanding officer. My right to a statutory hearing before a hearing officer has been explained to me and I hereby voluntarily:

() Accept the finding and the proposed disciplinary action.

(☒) Decline to accept any disciplinary action without a statutory hearing.

Officer's Signature

Date

Witnessed by:

CO 1A

CMT- GARZOLLA



City Of New Rochelle
New York

Interdepartmental communication

To: Police Officer Araz Alali

From: Captain Robert Gazzola

Subject: Proposed Disciplinary Action

Date: 8 Aug 06

- 1) Attached hereto please find a copy of charges against you alleging misconduct on your part.
- 2) A penalty of a Loss of one (1) leave day is proposed.
- 3) You have eight (8) days in which to answer this communication. Such answer shall be on the form attached or in similar form and must be in my office no later than Aug. 29, 2009 EXTENDED DUE TO VACATION (19)

Should you fail to respond, such failure shall be construed as not contesting the proposed disciplinary action and accepting the proposed penalty therefore without a hearing.

- 4) You have the right to be represented by Counsel and / or other representative of your choosing.

AA

STATE OF NEW YORK
CITY OF NEW ROCHELLE

-----X

In the Matter of the Disciplinary Charges
Preferred by

CAPTAIN ROBERT GAZZOLA,

Charging Party,

- against -

POLICE OFFICER ARAZ ALALI,

Respondent.

**CHARGES AND
SPECIFICATIONS**

-----X

Pursuant to applicable provisions of law, disciplinary charges are hereby preferred
against you as follows:

CHARGE I - MISCONDUCT

Specification 1

Reckless Operation of a Department Vehicle

Rule 8.2 of the Rules and Regulations of the City of New Rochelle Police Department
provides, in part, that members of the Department will operate Department vehicles in a careful
and prudent manner in accordance with all Vehicle and Traffic laws and Departmental



AA

procedures, giving highest priority to the safety and welfare of the general public and to avoiding injuries to persons or damage to property. On or about June 15, 2006 at approximately 1220 hours, while operating Department vehicle RC #18 in or near Pershing Square, you responded to a request for assistance made by other New Rochelle police officers who were making or attempting to make an arrest on Pintard Avenue. While responding to Main Street and Pintard Avenue, you were driving at a high rate of speed and proceeded through a red light at the intersection of Huguenot Street and Division Avenue without slowing down. While at the intersection of Huguenot Street and Centre Avenue, you drove up onto the sidewalk in front of 330 Huguenot Street, although it did not appear necessary to do so. Your reckless operation of a Department vehicle constitutes misconduct in violation of Rule 8.2 of the Rules and Regulations of the City of New Rochelle Police Department.

Specification 2

Reckless Operation of a Department Vehicle

Rule 8.2 of the Rules and Regulations of the City of New Rochelle Police Department provides, in part, that members of the Department will operate Department vehicles in a careful and prudent manner in accordance with all Vehicle and Traffic laws and Departmental procedures, giving highest priority to the safety and welfare of the general public and to avoiding injuries to persons or damage to property. On or about June 15, 2006 at approximately 1220 hours, while operating Department vehicle RC #18 in or near Pershing Square, you responded to a request for assistance made by other New Rochelle police officers who were making or attempting to make an arrest on Pintard Avenue. While responding to Main Street and Pintard Avenue, you were driving at a high rate of speed and proceeded through a red light at the

(AA)

intersection of Huguenot Street and Division Avenue without slowing down. Before you reached the intersection of Huguenot Street and Centre Avenue, you and all other responding units were advised twice by the officers already on the scene that the incident was under control, and a road supervisor advised that anyone not already on the scene should disregard and resume patrol. Despite this, you continued to respond to the call and while at the intersection of Huguenot Street and Centre Avenue, you drove up onto the sidewalk in front of 330 Huguenot Street, although it did not appear necessary to do so. Your reckless operation of a Department vehicle after being advised that assistance was no longer necessary and to disregard the call and resume patrol constitutes misconduct in violation of Rule 8.2 of the Rules and Regulations of the City of New Rochelle Police Department.

CHARGE II – MISCONDUCT

Specification 1

Failure to Log On To Video Camera

Articles 2.11 and 2.12 of the Department's Manual of Procedure provides that when an officer is assigned a Department vehicle with an in car video camera system, he/she must log on to the camera system at the commencement of his/her tour of duty. On or about September 16, 2006 you were assigned to Department vehicle RC #18, which is equipped with an in car video camera system. At approximately 0830 hours on that date, you performed a traffic stop opposite 301 North Avenue, during which you claim that the motorist became violent and attempted to strike you. You radioed for assistance and the motorist was arrested and charged with Assault. You received a minor injury to your right arm. When the Department attempted to view the

video of the traffic stop, there was no video to view because you failed to log on to the vehicle's video camera system. The video camera system in Department vehicle RC # 18 was functioning properly on that date and there was no malfunction. Your failure to log on to the video camera system at the beginning of your tour as required is a failure to adhere to established Department policies and procedures and constitutes misconduct in violation of Rule 1.1 of the Rules and Regulations of the City of New Rochelle Police Department.

CHARGE III - MISCONDUCT

Specification 1

Leaving Designated Area of Patrol

Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department provides in part that members assigned to a designated patrol area may not leave their designated area of patrol except for police necessity, personal necessity or meal period. During the period June 3, 2006 through September 12, 2006, your designated area of patrol was North Avenue between Hamilton Avenue and Main Street. Although you were advised that you were to remain within your designated area of patrol, on numerous occasions you issued parking violation summonses outside of your designated patrol area, including but not limited to the following dates: 6/3/06, 6/6/06, 6/8/06, 6/9/06, 6/12/06, 6/20/06, 7/10/06, 7/14/06, 7/15/06, 7/21/06, 7/23/06, 7/24/06, 7/27/06, 8/3/06, 8/4/06, 8/5/06, 8/9/06, 8/10/06, 8/11/06, 8/12/06, 8/15/06, 8/18/06, 8/22/06, 8/24/06, 8/28/06, 8/29/06, 8/30/06, 8/31/06, 9/3/06, 9/4/06, 9/9/06, 9/10/06, 9/11/06 and 9/12/06. Your actions constitute misconduct in violation of Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department.

(AAT)

Specification 2**Leaving Designated Area of Patrol**

Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department provides in part that members assigned to a designated patrol area may not leave their designated area of patrol except for police necessity, personal necessity or meal period. During the period June 3, 2006 through September 12, 2006, your designated area of patrol was North Avenue between Hamilton Avenue and Main Street. Although you were advised that you were to remain within your designated area of patrol, on numerous occasions you issued Uniform Traffic Tickets outside of your designated patrol area, including but not limited to the following dates: 6/16/06, 6/20/06, 7/14/06, 7/15/06, 7/17/06, 7/21/06, 7/23/06, 7/24/06, 7/27/06, 8/2/06, 8/3/06, 8/4/06, 8/9/06, 8/16/06, 8/18/06, 8/22/06 and 9/11/06. Your actions constitute misconduct in violation of Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department.

Specification 3**Insubordination**

Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department provides in part that members assigned to a designated patrol area may not leave their designated area of patrol except for police necessity, personal necessity or meal period. During the period June 3, 2006 through September 12, 2006, your designated area of patrol was North Avenue between Hamilton Avenue and Main Street. Although you were advised that you were to remain within your designated area of patrol, on numerous occasions you issued parking violations summonses and Uniform Traffic Tickets outside of your designated patrol area, including but not

AA

limited to the following dates: 6/3/06, 6/6/06, 6/8/06, 6/9/06, 6/12/06, 6/16/06, 6/20/06, 7/10/06, 7/14/06, 7/15/06, 7/17/06, 7/21/06, 7/23/06, 7/24/06, 7/27/06, 8/2/06, 8/3/06, 8/4/06, 8/5/06, 8/9/06, 8/10/06, 8/11/06, 8/12/06, 8/15/06, 8/16/06, 8/18/06, 8/22/06, 8/24/06, 8/28/06, 8/29/06, 8/30/06, 8/31/06, 9/3/06, 9/4/06, 9/9/06, 9/10/06, 9/11/06 and 9/12/06. Although you were advised several times after you were assigned the above-stated designated area of patrol that this behavior is unacceptable, you continued to go outside of your designated patrol area. Your actions constitute insubordination.

CHARGE IV - MISCONDUCT

Specification 1

Failure to Maintain Memorandum Book

Rule 1.28 of the Rules and Regulations of the City of New Rochelle Police Department provides, in part, that all sergeants, uniformed detectives, police officers and non-sworn uniformed personnel assigned to street duty will be provided with a memorandum book and that on each tour of duty the day, date, tour, post assigned, weather conditions, meal period, special assignments, local alarms and a complete and accurate accounting of all duty performed and post conditions will be entered into the memorandum book. During the period June 9, 2006 through September 3, 2006 you were assigned to street duty. During this same period of time, you made only 5 entries in your memorandum book. Your failure to maintain your memorandum book constitutes misconduct in violation of Rule 1.28 of the Rules and Regulations of the City of New Rochelle Police Department.

CHARGE V - MISCONDUCT

Specification 1

Failure To Call Out On Meal Period/Off Post

Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department provides in part that members assigned to motorized patrol, foot patrol or a fixed post may not leave their designated area of patrol except for police necessity, personal necessity or meal period, that prior to leaving an assignment for personal necessity or meal period supervisory approval must first be obtained, and that when an officer calls out of service he/she must notify the dispatcher of the reason and his/her location. On September 10, 2006 your designated area of patrol was North Avenue between Hamilton Avenue and Main Street. On that date you left your designated area of patrol to take a meal period, but failed to obtain supervisory approval to leave your post and failed to advise the Department that you were leaving your post. Your actions constitute misconduct in violation of Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department.

Specification 2

Insubordination

Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department provides in part that members assigned to motorized patrol, foot patrol or a fixed post may not leave their designated area of patrol except for police necessity, personal necessity or meal period, that prior to leaving an assignment for personal necessity or meal period supervisory approval must first be obtained, and that when an officer calls out of service he/she must notify the dispatcher of the reason and his/her location. On September 10, 2006 your designated area of



patrol was North Avenue between Hamilton Avenue and Main Street. On that date you left your designated area of patrol to take a meal period, but failed to obtain supervisory approval to leave your post and failed to advise the Department that you were leaving your post. On or about November 22, 2002 you received a letter of reprimand for a violation of Rule 1.5 of the Rules and Regulations of the City of New Rochelle Police Department for being off your assigned post and at another diner in the City of New Rochelle. Your conduct on September 10, 2006 after being warned about similar misconduct in the past constitutes insubordination.

You are entitled to answer the above charges. The answer is due eight (8) days after the charges are served upon you, not counting the day you receive the charges. The answer should be served upon Captain Gazzola at his office at the City of New Rochelle Police Department.

You are entitled to a hearing on the charges and to be represented by an attorney. A transcript will be made of the proceedings and you should be prepared at the hearing to present such witnesses and other proof as you have in your defense against the charges.

You will be advised of the time and place of the hearing. If you are found guilty of the above charges, the penalty or punishment imposed upon you may consist of dismissal from the Department, demotion in grade or title, suspension without pay, a fine, or a reprimand. The penalty being sought is a 30-day suspension without pay. All future correspondence regarding this matter will be served upon you at your last address on file with the Department unless you advise me to the contrary.

Dated: 2/15/07


CAPTAIN ROBERT GAZZOLA

9146542307

New Rochelle Police Department

Employee Performance Appraisal

Name: Araz Alali Rank: Police Officer Employee Number: 9551Current Assignment: Patrol 2nd TourRating Period: From Nov 26, 2004 To Dec. 31, 2004Days Absent in Rating Period: Sick 5 Injured 172 Vacation 0**Productivity:**Summonses UTT 136 PVS 185 City Code 36Arrests Felony 2 Misdemeanor 6 Other 8Calls for Service Incident Reports 153 Accident Report 7**Narrative:**

Police Officer Araz Alali has been employed by this department since 2002 after transferring from the NYPD. He was assigned to the 1st tour for most of the year and was reassigned to the 2nd tour on November 26. After arriving on the 2nd tour Officer Alali spent a week working in communications before going on the road.

During the brief period of time that I had to personally observe Officer Alali, he had a generally acceptable attitude towards the department and his job. However, at times he would show some displeasure when receiving an undesirable assignment, such as a prisoner transports or foot post detail. Officer Alali seems to have good job knowledge and he handles his details in an efficient and timely manner and didn't need additional supervision to complete details. He writes clear and concise reports and his notebook is up to date and detailed. Officer Alali displays an exemplary appearance. His uniform is always neat and properly maintained. Officer Alali has great initiative and is clearly one of the most productive members of the department. His City Code and V&T totals would be outstanding full year totals, but considering he missed 172 work days due to and on duty injury makes them dramatic.

Officer Alali is very aggressive, sometimes overly aggressive and this aggressiveness leads to many of his problems. Officer Alali has to be reminded that he needs to advise Central when he does a vehicle stop and give his location even if he has a computer in his vehicle. Officer Alali also seems to have problems orally communicating with the public. The manifestation of this shortcoming is 3 civilian complaints for discourtesy for the year. This communication problem is one that Officer Alali needs to address in the upcoming year. Officer Alali appears to have good investigative skills, judging by his arrest totals. Officer Alali's aggressiveness should be encouraged but improvement in his demeanor and ability to communicate with the public also must also be stressed in the next rating period. Officer Alali was not on the sick abusive list and did not receive any negative discipline during the rating period.

Officer Alali meets standards for the rating period

Below Standard Meets Standard X Above Standard (use other side if necessary)[Signature]
Employee's Signature22 JAN 05
Date[Signature]
Evaluator's Signature22 JAN 05
Date[Signature]
Tour/Unit Commander1/22/05
Date[Signature]
Division Commander2/1/05
Date

Deputy Police Commissioner

Date

Police Commissioner

Date

PD 118
typewritten

Form must be

RECEIVED TIME JUL. 11. 3:40PM

**CITY OF NEW ROCHELLE
NEW YORK**

INTERDEPARTMENTAL COMMUNICATION

CAH [Signature] 10/5/05

TO: Police Officer Araz Alali
FROM: Sergeant Austin
DATE: 29 September 2005
SUBJECT: Letter of counsel

The Purpose of this communication is to counsel you regarding your current work performance, and the department's expectations of your future work performance.

Current work performance

In your current assignment to second tour Patrol your main functions are to perform any assignment or detail you are assigned in the course of your duty in a manner appropriate with Departmental guidelines and practice.

To date in 2005 you have issued 358 moving violations, 321 parking violations and 3 city code summonses. You have had 37 arrests until 15 August 2005.

5 sick days have been used.

You are a highly active and productive officer which is supported by the statistics. You initiate calls for service when needed. In most areas of enforcement you are well above the average for second tour. With your productivity and arrests statistics you could be considered for specialized units.

Issues

In your time in New Rochelle you have had several citizen complaints and several Department initiated complaints. Also several Supervisors have had meetings with you to discuss department policy and expectations. Due to these issues I have been assigned to ride with you in various capacities and observe you handling of incidents and your interactions with the public.

From these reports and my observations during this time the following issues should be addressed.

On Traffic stops you frequently fail to call out car stops prior to making contact with the operator. I have also observed you not adhering to Department Guidelines on use of Verbal Judo when addressing the operator.

On several occasions you required forms or summons that you did not have with you. Other units responded with needed materials such as accident reports or city code summonsed.

Your productivity regarding UTT's and parking violations is above average. However you have issued only 3 City Code summonses for the year.



CITY OF NEW ROCHELLE NEW YORK

INTERDEPARTMENTAL COMMUNICATION

In situations where your authority is challenged or the subject is disrespectful it has been observed that you get upset at the challenge and will continue an argument when it is not called for. This only serves to escalate the situation instead of diffusing it as is your responsibility. This is possibly the source of some complaints you have had.

While you actively patrol your areas of assignment your focus is on the primary roads in that area. Your priority seems to be mainly looking for vehicle violations. While this is an important component of patrol there are other needs the Department requires. You are to give due attention to all areas including side roads. Your patrol is also intended for you to be familiar with the people in the areas you are assigned and their concerns for the area such as quality of life issues and desire for a Police presence even if no active enforcement is needed or desirable. Frequent traffic stops are a way to encourage compliance with traffic laws, Discretion can and should be used on stops and other interactions with minor offenses. Often times other considerations need to be taken into account such as the benefit of the enforcement, manpower requirements, other incidents needing attention as well as whether the enforcement can be followed up at a later time without detriment to the community.

You had several Traffic stops where arrests were made due to either drugs or weapons found in plain view. Concerns were raised as to the blatant nature of the observed items and the short time frame these occurred in. These stops occurred prior to my assignment with you and were discussed previously. All Laws and Department policies regarding search and seizure should be followed.

While riding with you I have observed you become aggravated with Department policies you do not agree with or feel are handled better by other departments. Also in the past you have received department discipline after being advised of Department rules you were violating and you did not correct the condition. New Rochelle has its guidelines and is not required to follow other departments. Difference of opinion is understood, but you are required to follow New Rochelle Policy and Procedure. Proper channels are available to register disagreement with those guidelines.

Expected Work Performance

Your work performance in some areas is above average levels. What is required is to follow Department guidelines regardless if you feel them necessary or if the purpose behind them is clear. You are expected to continue to properly enforce violations and other required police actions. You are also expected to be a more rounded officer addressing other needs of the community other than just enforcement.

The following are areas you need to ensure you are familiar with and comply with department expectations;

CITY OF NEW ROCHELLE NEW YORK

INTERDEPARTMENTAL COMMUNICATION

- 1-Traffic stops are to follow Department Rule regarding calling out stops, use of verbal judo, and other procedures. R&R Ch1, Sub 1.13, MOP Ch 2, Art 2.03
- 2-Required equipment will be carried, for example, all necessary summonses, required uniform equipment and reports and forms needed for patrol. Ensuring vehicle is properly stocked. R&R Ch 9, Sub 9.47. R&R Ch 8, Sub 8.4
- 3-Patrol and be familiar with all streets of assigned areas as well as primary roads. R&R Ch 1, Sub 1.7
- 4- Use discretion in dealing with the public when issuing summonses or making a arrest. R&R Ch 2, Sub 2.4, MOP Ch 1, Art 1.01
- 5- Maintain composure in situations where your authority is challenged or discourteous is directed at you but no other reason for action is present. Use Verbal Judo as per MOP Ch5, Art 5.31, R&R Ch 2.2.4
- 6- Enforce violations of the City Code when appropriate. R&R Ch1, Sub 1.2. MOP Ch 5, Art 5.26
- 7- Follow search and seizure laws and Department policy regarding same. MOP Ch 1, Art 1.01, MOP Ch 3, Art 3.06
- 8- Follow proper use of 10 codes including calling out on scene and calling clear from scene. R&R Ch1, Sub 1.10, MOP Ch 7, Art 7.01,
- 9- Obey and comply with any lawful order given by a superior officer. R&R Ch 2, Sub 2.39

These have been discussed previously and are listed in MOP/R&R. You should be familiar with all Department policies and procedures and should follow same. Failure to follow department guidelines would lead me to conclude that you are "unwilling" to conform to work standards established for your position in violation of R&R Ch 1, Sub 1.2.

I have read and understand the above communication: .

Police Officer Araz Alali

however I do not agree with the finding

Witnesses:

Sgt. Edward Austin

Sgt E Austin

Lt. William Schulman

William Schulman

New Rochelle Police Department

Employee Performance Appraisal

3024
Name: Alali, Araz Rank: Police Officer Employee Number: 9551

Current Assignment: PSD-Second tour

Rating Period: From 01 January 2005 To 31 December 2005

Days Absent in Rating Period: Sick 5 Injured 0 Vacation 5

Productivity:

Summonses UTT 476 PVS 414 City Code 8

Arrests Felony 10 Misdemeanor 49 Other 6

Calls for Service Incident Reports 622 Accident Report 49

Narrative:

PO Alali has been employed by NRPD since February 2002. Prior to that he was with the NYPD. He is currently on second tour assigned primarily to north end sectors. PO Alali is an extremely active officer and leads the tour in arrests and moving violation summonses. However these statistics do not fully indicate Officer Alali's effectiveness as a Police Officer. This year he has also led the Department in citizen complaints with six. These complaints have primarily been for discourtesy. Most have not resulted in disciplinary action due to the lack of evidence. One resulted in a written reprimand. Also frequently PO Alali has had meetings with PSD Captain, second tour commander and several other second tour supervisors. These meeting were primarily for advice on Department expectations. Officer Alali attempted to conform closer to expectations for a time but would again begin to perform as he desired. This culminated in my riding with Officer Alali for approximately one month from 31 August until the end of September. In this time several issues were noted and a letter of counsel was written. This documented Department regulations to be followed and that all Officers are responsible to follow. Officer Alali stated his strong disagreement to the letter. There were several meetings between PO Alali and the Captain, Second tour Lieutenant and myself to discuss it. PO Alali continued with his contention that he felt he was correct in his methods and did not agree with the letter of counsel. Since riding with him he has begun writing more city code summonses and appears to be trying not to be as focused on vehicle stops. PO Alali has failed several times to advise HQ of traffic stops. This has been brought to his attention many times in the past. He now seems to be making notification more frequently. I advised him on 09 Nov 2005 of a deficiency with his uniform for a severely worn gun belt. He corrected the problem and otherwise always presents a clean and neat appearance. Officer Alali's reports are poor, by being sloppy, hastily written and with minimal detail. This seems more due to lack of care and interest than a lack of ability. PO Alali believes he is unfairly targeted for criticism. He also does not agree with several Department policies. It appears he is disgruntled because of this and is not motivated to do more than the minimum necessary on incidents. Officer Alali received negative discipline from one incident. He was charged with leaving his sector without authorization and violating parking restrictions. This resulted in the loss of two days.

PO Alali used 5 sick days for 2005 and 5 vacation days.



PO Alali needs to accept that he is responsible to follow Department policies and expectations even if the reason for them is not apparent. If he did this he could become a valuable member of the Department and an asset to specialized units. He has a strong work ethic and has had many good arrests. However his high productivity does not outweigh the problems experienced and apparent lack of ability to understand and follow Department expectations. Therefore Officer Alali does not meet Department standards for 2005.

(use other side if necessary)

Below Standard <u>X</u>	Meets Standard	Above Standard	
<u>[Signature]</u> Employee's Signature		<u>01/27/06</u> Date	<u>Sgt E. Quintero</u> Evaluator's Signature
<u>[Signature]</u> Tour/Unit Commander		<u>1/25/06</u> Date	Division Commander Date
Deputy Police Commissioner Date		Police Commissioner Date	

Form must be typewritten

PD 118

I have
received
this
evaluation
and
I agree
with
it.

COPY

New Rochelle Police Department

Employee Performance Appraisal

Name: Araz Alali Rank: Police Officer Employee Number: 9551

Current Assignment: PSD 2nd Tour

Rating Period: From January 1, 2006 To May 31, 2006

Days Absent in Rating Period: Sick 5.5 Injured 0 Vacation 0

Productivity:

Summonses UTT 142 PVS 123 City Code 16

Arrests Felony 4 Misdemeanor 27 Other 2

Calls for Service Incident Reports 219 Accident Report 13

Narrative:

Police Officer Alali has been employed by the New Rochelle Police Department since February 2002. He has been assigned to the second tour since November 2004. Officer Alali is currently assigned to work northern sectors of the city.

During the last rating period Officer Alali received a below standard evaluation from Sgt. Austin which necessitated this interim evaluation.

The primary issues that Officer Alali struggles with are his inability to understand, or his unwillingness to adhere to, department policies, and his lack of communication skills necessary to deal with the citizens of New Rochelle. To a lesser extent, Officer Alali also has problems with report writing and lack of discretion. These issues have been discussed with Officer Alali and were outlined in a letter of counsel he received last year from Sgt. Austin.

During the first five months of this year, Officer Alali has been assigned to work almost exclusively in sectors eight and nine. During this time, Officer Alali has had good enforcement statistics. He leads the tour in most categories and has improved on his city code enforcement, which was an area of deficiency last year. There is little doubt that Officer Alali focuses mainly on V&T enforcement when working and does a good job in that area. However, because of his single-minded focus on enforcement he is ignoring the other



responsibilities of a sector officer. New Rochelle PD is a public service oriented Police Department and Officer Alali needs to improve his communication skills in order to leave a more positive impression with the citizens he comes into contact with.

Since Officer Alali works mostly sector 8 and 9 and subsequently I have rarely had the opportunity to directly observe him handle calls for service other than motor vehicle accidents and alarms. I did respond to one domestic dispute with Officer Alali and during the incident, he handled himself professionally and at no time was he discourteous. However, calls for service have not been a problem area for Officer Alali. His most troublesome area has been and continues to be, the number of complaints he accumulates. In 2005, Officer Alali received six civilian complaints. Thus far, in May 2006, Officer Alali has already received four complaints. Clearly, he is not improving from last year. The four complaints are as follows:

- 1 Excessive force (pending).
- 2 Discourtesy (unsubstantiated).
- 3 Miscellaneous complaint about Officer Alalis' driving habits (counseled).
- 4 Abuse of authority.

The last complaint is still pending the outcome of the internal affairs investigation.

A major problem with the complaints that Officer Alali has received is that the complainants in two of the incidents state that their contact with Officer Alali has diminished their opinion of the New Rochelle Police Department as a whole. Officer Alali needs to understand that any contact with the public that ends in a civilian complaint whether substantiated or not is a negative for the entire Department. It seems that when his authority is challenged, particularly during car stops, instead of just issuing the summons and leaving, which at least, would not escalate the confrontation, he contributes to the agitation of the motorist by issuing a seemingly punitive number of summonses. These actions lead to civilian complaints.

Another issue outlined by Sgt. Austin is a lack of discretion on the part of Officer Alali. Officer Alali has made several good arrests over the last few months, including a gun arrest and several drug arrests. However, he seems to be unable to weigh the value of an arrest for minor infractions with the value of officer safety and considerations of available manpower.

In the last rating period, Officer Alali seemed to have trouble following the rules and regulations of the department. This rating period there have been no documented occurrences of rule violations on the part of

Officer Alali. This is an area that he has improved upon over last year.

Officer Alali's report writing was also a problem area last year. Early this year Officer Alali conducted an excellent investigation that resulted in the arrest of several suspects who were charged with various serious penal law violations, including Burglary. Unfortunately the reports and statements that he submitted were badly flawed because they included sexually explicit statements by a suspect that were unnecessary in the context of the crimes committed for the reports and statements. The unnecessary inclusion of those statements into the reports overshadowed what was an outstanding investigation conducted by Officer Alali. Nevertheless, since that incident his report writing has improved. He now seems to understand how much detail needs to be documented for a given incident.

Officer Alali has used 5.5 sick days to date which is more than he used all of last year, but the days were used in only two incidents.

Officer Alali was used for two weeks in the Communications Unit as a dispatcher and adapted very well to the task. He also trained with PO Labarbera on the duties of the Court officer. Officer Alali did perform these tasks but not without voicing some displeasure.

Officer Alali has good street patrol level investigative skills and has made many high-quality car stop based arrests.





Because of his initiative, productivity, and investigative skills, I believe that Officer Alali would be above standards if he could improve in the areas of discretion and communication skills. Officer Alali is deficient in those areas, and it seems the combination of a lack of communication skills and the lack of discretion results in civilian complaints.

I believe that Officer Alali can improve in those areas in the upcoming rating period. When Officer Alali improves in those areas, he will be a meets standard or an above standard officer. Until that time, Officer Alali will remain below standards.

I rate Officer Alali below standard for the rating period.

I do not agree w/ the Finding

Below Standard X Meets Standard _____ Above Standard _____ (use other side if necessary)

	<u>6/1/06</u>		<u>6/1/06</u>
Employee's Signature	Date	Evaluator's Signature	Date
	<u>6/1/06</u>		<u>6/2/06</u>
Tour/Unit Commander	Date	Division Commander	Date
_____ Deputy Police Commissioner	_____ Date	_____ Police Commissioner	_____ Date

New Rochelle Police Department

Employee Performance Appraisal

Name: Araz Alali Rank: Police Officer Employee Number: 9551Current Assignment: 2nd Tour PSDRating Period: From January 1, 2006 To December 31, 2006Days Absent in Rating Period: Sick 13.5 Injured 0 Vacation 15

Productivity:

Summonses UTT 383 PVS 976 City Code 42Arrests Felony 6 Misdemeanor 37 Other 2Calls for Service Incident Reports 290 Accident Report 14

Narrative:

Police Officer Araz Alali has been employed by the New Rochelle Police Department since 2002. In the last rating period of 2005 Officer Alali received a below standard evaluation. This necessitated close monitoring of his performance and frequent evaluations of his progress during the rating period.

For the first six months of the year, Officer Alali was primarily assigned to work sectors eight and nine. During that time his vehicle & traffic and parking enforcement statistics were excellent, though compiling impressive enforcement statistics has never been a problem for Officer Alali. He has been at or near the top of the department in most categories since his arrival in 2002. The problem with Officer Alali while working in the north end was the fact that he did not patrol all areas of his sector and paid little or no attention to quality of life issues affecting those areas. Instead, he chose to focus on main roads and parkway off-ramps. However, Officer Alali displayed good job knowledge and conducted some good investigations that led to quality arrests. One particular investigation led to the arrest of two people. One person was charged with criminal mischief and the other possession of stolen property.

In June, Officer Alali was reassigned to a traffic detail meant to alleviate the congestion that plagues North Avenue between Hamilton Avenue and Main Street. Officer Alali continued to display his ability to write summonses and I believe he was improving the problem of traffic congestion on his post. However, his lack of discretion and communication skills led to civilian complaints. For example, Officer Alali was frequently issuing parking summonses while the driver was in the car. At that time, Officer Alali was advised that he and the department would be better served if he occasionally moved an illegally parked car along instead of issuing a parking ticket on a car with the driver in it.

There were some discipline issues during the rating period with Officer Alali. He had difficulty staying within his assigned area. He was often reminded of this, but he continued to stray from his post. I recommended departmental discipline for Officer Alali leaving his post on two occasions. There was also an incident where Officer Alali showed questionable judgment by driving recklessly while responding to assist another Officer even after being advised to disregard. Departmental discipline was recommended for this incident as well. I recommended Officer Alali receive departmental discipline four times during the rating period and I was advised by Lt.



During the rating period, Officer Alali received eight civilian complaints. Of the complaints filed, three were for abuse of authority. He was exonerated in one case and the other two are pending. Two complaints were for discourtesy. Both were unsubstantiated but he received counseling for one incident. He received two complaints for reckless driving. One complaint is pending charges and the other was unsubstantiated with Officer Alali receiving counseling. Officer Alali also received a complaint for excessive force. That complaint is pending.

In mid-September, Officer Alali was reassigned to the communications unit. Since his reassignment to the communications unit Officer Alali has had a good attitude and has performed very well in the unit as the dispatcher. There have not been any negative incidents since Officer Alali's reassignment. There has been an increase in Officer Alali's sick time this year and he received a warning letter regarding this.

Officer Alali continues to struggle with his communication skills and demeanor while dealing with the public. Officer Alali has a high number of negative contacts frequently resulting in civilian complaints. Civilian complaints and department discipline were negative issues last year and there has not been a discernible improvement over this rating period. If Officer Alali could improve upon his communication skills, demeanor, and an understanding of discretion, he could be an officer that meets standards. Until that time, he will remain a below standard Officer.

Police Officer Alali is below Standard for the rating period.

I am signing to receipt of this evaluation ONLY. It is clearly raucorous and vengeful. There are many fabrications and I will emphatically rebut them with a letter within the next 5 days.

<input checked="" type="checkbox"/> Below Standard X	<input type="checkbox"/> Meets Standard	<input type="checkbox"/> Above Standard	(use other side if necessary)
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	
Employee's Signature	Date	Evaluator's Signature	Date
<i>2/2/07</i>	<i>02/02/07</i>	<i>Cent...</i>	<i>5/8/07</i>
Tour/Unit Commander	Date	Division Commander	Date

Deputy Police Commissioner

Date

Police Commissioner

Date

9146542307
New Rochelle Police Department
Employee Performance Appraisal

Name: Araz Alali Rank: Police Officer Employee Number: 9551

Current Assignment: PSD

Rating Period: From January 1, 2007 To May 31, 2007

Days Absent in Rating Period: Sick 7 Injured 0 Vacation 0

Productivity:

Summonses UTT 167 PVS 132 City Code 5

Arrests Felony 0 Misdemeanor 19 Other 0

Calls for Service Incident Reports 180 Accident Report 14

Narrative:

P.O. Alali was rated below standard for 2006 which necessitated this re-evaluation. The re-evaluation period was from March 1, 2007 through May 31, 2007. P.O. Alali had been disciplined in 2006 because he had difficulty staying in his assigned area; however that has not been a problem during this evaluation period. Another area for concern was the amount of civilian complaints; however he has improved in that area as well with only one unsubstantiated complaint.

P.O. Alali received a warning letter for the use of sick time in 2006. P.O. Alali has not improved in this area as he has used 2 full sick days and on six occasions has gone home sick during his tour of duty during this evaluation period alone. He has used 7 sick days so far in 2007.

It was noted in his 2006 evaluation that P.O. Alali needed to improve upon his communication skills, demeanor, and his understanding of discretion. It is my opinion that he has not measurably improved in any of those areas.

In addition, it has been noted that P.O. Alali has failed to maintain a proper memorandum book. There has been no improvement in this area as it was discovered by an immediate supervisor during this evaluation period that he was again in violation of Rules and Regulations section 1.29. Department discipline is pending in that matter.

It is my opinion that P.O. Alali continues to perform below standard and requires close supervision.


*I clearly disagree with this evaluation.
 I am signing to receipt of this evaluation
 only. A rebuttal letter will follow.*

(use other side if necessary)

Below Standard <input checked="" type="checkbox"/>	Meets Standard <input type="checkbox"/>	Above Standard <input type="checkbox"/>	
<u>P.O. Alali</u>	<u>06/21/07</u>	<u>Sgt. [Signature]</u>	<u>6/21/07</u>
Employee's Signature	Date	Evaluator's Signature	Date
<u>[Signature]</u>	<u>6/21/07</u>	<u>[Signature]</u>	<u>6/21/07</u>
Tour/Unit Commander	Date	Division Commander	Date
Deputy Police Commissioner	Date	Police Commissioner	Date

**CITY OF NEW ROCHELLE
NEW YORK**

INTERDEPARTMENTAL COMMUNICATION

TO: Police Officer Araz Alali
FROM: Captain Robert Gazzola, Commanding Officer 
DATE: July 25, 2007
SUBJECT: Re-evaluation Review of your performance during the period of
January 1, 2007 to May 31, 2007

After carefully reviewing your challenge to the rating you received on your 2006 Employee Performance Appraisal – Re-evaluation, and discussing the matter with the rater, Sergeant Brady, I am amending your appraisal to “meets standard.” Therefore, the sanctions outlined in the Department Rules & Regulations, Chapter Two Section 2.47 no longer apply to you.

Cc: Personnel File
Attached to original 2006 Employee Performance Appraisal

New Rochelle Police Department Administrative Manual

Personnel

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12.7 RECORDS MAINTENANCE

All employment records gathered as part of the potential candidate's background investigation will be filed with the Staff Services Division. If the candidate is hired, the records will become a permanent part of candidate's personnel file. Personnel records of sworn employees will be maintained for a minimum of six years beyond the duration of their employment.

12.8 PROBATION

All police recruits serve a 64-week probationary period before receiving permanent civil service status. Police recruits will receive two interim evaluations and one final evaluation before receiving permanent civil service status.

12.9 OATH OF OFFICE

Upon being hired as a police officer the candidate will be sworn into office by the City Clerk.

13. PERFORMANCE EVALUATIONS

13.1 PERFORMANCE EVALUATION SYSTEM

A performance evaluation of every sworn employee will be conducted on an annual basis. The employee's immediate supervisor will do the performance evaluation. The employee is rated on the basis of his qualitative and quantitative performance. A list of rating factors is attached to the evaluation form and should be used as a guide in assessing the employee's performance.

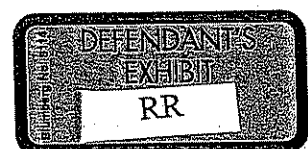
The performance evaluation is limited to the rating period and the overall objective of the evaluation is to improve job performance.

The following rating factors should be considered when rating non-supervisory sworn employees:

- Attitude
- Initiative
- Job Knowledge
- Judgement
- Written Reports
- Dependability
- Sensitivity
- Demeanor
- Appearance
- Oral Communication
- Adaptability
- Problem Solving

The following rating factors should be considered when rating supervisory sworn employees:

- Attitude
- Initiative
- Job Knowledge
- Judgement
- Written Reports
- Dependability



New Rochelle Police Department Administrative Manual

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- Sensitivity
- Demeanor
- Appearance
- Oral Communication
- Adaptability
- Leadership & Motivation Skills
- Decision Making
- Problem Solving
- Developing Subordinates
- Ability to Rate and Evaluate Subordinates

Each of the noted characteristics is defined on the Evaluation Form.

The rater will include within each performance evaluation a narrative comment that substantiates the rating given to the subject employee. The narrative will also include all recommendations that pertain to improving the employee's job performance.

At the time of the rating interview, the supervisor conducting the interview will review the evaluation with the employee and explain how the rating factors included in the evaluation relate to the employee's actual job performance. Before the review is ended, the rater will advise the employee about what is expected of him in the next rating period.

When a rater completes a performance evaluation of an employee, the rater will forward the evaluation to his immediate supervisor for review. After reviewing the evaluation, the rater's supervisor will sign off on it and forward it to the division commander for his review.

Each employee will be rated by his immediate supervisor. If the employee has more than one immediate supervisor, the supervisor designated to perform the evaluation will confer with the other supervisors before completing the evaluation.

Each employee will review the performance evaluation and have an interview with the rating supervisor. After the subject employee has reviewed the evaluation, the employee will sign the evaluation and indicate that he has reviewed it. The fact that an employee has signed the performance evaluation does not indicate that the employee agrees or disagrees with the rater's appraisal of the employee's performance. The sole purpose for the employee signature is to indicate that the employee has reviewed the evaluation and discussed it with the rater.

The performance evaluation will be forwarded to the rater's immediate supervisor and then to the division commander for review. The rater will discuss the evaluation with his superiors and provide supporting information in cases where an employee is given a below standard rating or a rating that classifies the employee as above standard.

In cases where an employee receives a below standard evaluation, the employee may forward a PD 37 to his division commander requesting an interview to discuss his performance evaluation. This request must be made no more than five days after the evaluation interview. An interview will be granted by the division commander; however, the employee will not be allowed to bring any witnesses or representatives to the interview. Any further action taken will be at the sole discretion of the division commander. Within two weeks after the interview the division commander will provide the employee with a written response to the employee's challenge of the evaluation.

New Rochelle Police Department Administrative Manual

Personnel

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When the division commander finds no merit to the employee's complaint, the written response will indicate that the complaint is "without merit" and that the division commander "concurs with the rater's appraisal." When the division commander finds that the employee's complaint is valid, he will ensure that the evaluation is properly amended.

The request for the review and whatever determination the division commander makes will become part of the employee's permanent personnel record.

Each employee is entitled to a copy of his performance evaluation. One will be provided upon the written request of the employee.

13.2 RATER TRAINING

Supervisors will annually receive training in performance evaluations. Division commanders will base part of a supervisor's evaluation on his ability to properly rate subordinates.

14. DISCIPLINE

14.1 RULES RELATED TO CONDUCT, APPEARANCE AND PERFORMANCE

Every sworn member of the Department will be issued a copy of the Administrative Manual, Rules and Regulations, and Manual of Procedure. Every non-sworn member of the Department will be issued a copy of those portions of the Rules and Regulations and Manual of Procedure that apply to his specific position in the Department.

14.2 COURT APPEARANCES AND RELATED CONDUCT

Chapter 7 and rules 9.50 through 9.55 of the Rules and Regulations pertain to court appearances and related conduct.

14.3 LEGISLATIVE RESTRICTIONS FOR POLICE OFFICERS

Alcohol Beverage Control Law Proscriptions. Under Section 128 of the ABC Law, no police officer is permitted to have any interest in the sale or manufacture of alcoholic beverages.

Political Activity. Rule 2.21 of Chapter Two of the Rules and Regulations outlines all proscribed political activity for police officers. This is in accordance with Section 17-110 of the New York State Election Law.

Racing, Wagering and Breeding Law. Under Section 107 of the RWBL, no police officer may hold any office or employment with any firm that is licensed to conduct its business at a racetrack or that owns, leases or manages a racetrack.

Conflicts of Interest under the Public Officers Law. According to Article 4 of the POL, no police officer will: Accept a gift of more than \$75 (Refer to rules 2.33, 2.34, 2.35, and 2.36 of the Rules and Regulations for additional limitations). Disclose confidential information learned in the course of official duty to unauthorized persons. (Refer to rules 3.1, 3.2, 3.3, 3.4, and 3.5 of the Rules and Regulations for additional limitations.)

Off Duty Employment. Members of the Department shall not engage directly or indirectly in any other business or employment without the written approval of the Police Commissioner. (Rules and Regulations 2.43 and Manual of Procedure, Article 6.04). Furthermore, any employee wishing to engage in off duty employment will file a CO 8 with the Police Commissioner

EXHIBIT W

**This Exhibit is a DVD disk (with audio and video)
that plays on Windows Media Player**

**The original disk has been supplied to the Court
A copy has been served on the plaintiff**

**New Rochelle Police Department
Manual of Procedure**

Subject: **In-Car Video Cameras**

Chapter: Two

Article: 2.11

Page 1 of 2

Date Effective: 01 Sep 01

Date Revised:

POLICY: The In-Car Video Systems have proven to be a valuable asset in gathering recorded evidence for the prosecution of criminal and traffic offenses. The In-Car Video equipment shall be used for furthering officer safety, training, assessment of officer performance, and defense of complaints against personnel.

The videotapes identified in this policy are property of the New Rochelle Police Department. Any release, copying, or dissemination of any portion is strictly prohibited without the express written consent of the Commissioner of Police or his designee.

PROCEDURE:

1. General Operating Procedures:

1.1 The video equipment is the responsibility of the officer assigned to the vehicle, and shall be operated in accordance with the manufacturer's recommendations.

- At the beginning of a tour, the officer shall speak into the mike and identify himself by stating his name, ID number, vehicle number, time and date.
- Officers shall not erase or alter the tapes in any manner. Erasing of the tapes will be done at the direction of the Division Commander.
- Officers shall use only videotapes approved by the Department.
- In the event of equipment failure or defect, the officer shall document same in his memo book and advise his supervisor.

1.2 Equipment shall be checked for proper operation at the beginning of each tour. The officer shall ensure that:

- The video recorder is positioned and adjusted to record events.
- The video is not deactivated until the enforcement action is completed.
- The microphone is activated in order to provide the audio recording associated with the video images.

1.3 To record all Motor Vehicle stops:

- Routine Traffic Violations: recording shall commence from the point of activating the police vehicle's emergency lights, and continue during the entire stop, concluding as the violator drives away.
- Suspected DWI: recording shall commence from the point where the officer first suspects erratic driving, and concluding when the suspect is removed from the patrol vehicle in the Sally Port. When safety permits, the field sobriety tests administered by the officer shall be included in the recording.
- Accident Scene: at the direction of a supervisor, where the recording of a scene will assist in the investigation.

**New Rochelle Police Department
Manual of Procedure**

Subject: **In-Car Video Cameras**

Chapter: Two

Article: 2.11

Page 2 of 2

Date Effective: 01 Sep 01

Date Revised:

1.4 Non-traffic situation:

- Where the use of the recording device will aid in the documentation of an incident
- In the transportation of a member of the opposite sex or a juvenile, the camera shall remain on until the subject is removed from the vehicle.
- In the transportation of unruly, disorderly subjects, the camera shall remain on until the subject is removed from the vehicle.

2 Tape Management:

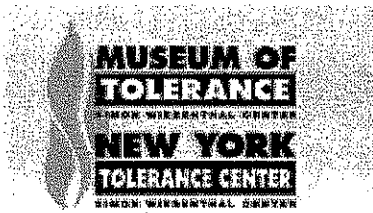
- 2.1 Videotapes containing information that may have evidentiary value shall be entered in the Evidence and Property System outlined in Article 9.03 of the Manual of Procedure.
- 2.2 When tapes need to be replaced or removed from the recorder, a supervisor shall remove the tapes.
- 2.3 Videotapes removed from vehicles will be marked with the vehicle number, and time and date of removal.
- 2.4 Videotapes removed and not held as evidence, will be given to the Property Room Clerk for storage. The tapes will be maintained in the Property Room for not less than 30 days.
- 2.5 After 30 days, the tapes may be reused, after being completely erased by a designated, qualified person.

3 Supervisory Responsibilities

- 3.1 Supervisors whose subordinates are operating the in-car systems shall ensure that the officers follow established procedures for the use and maintenance of the video equipment.
- 3.2 The tapes will be randomly reviewed on a bi-monthly basis to assist in a periodic assessment of officer performance, and to determine whether the video equipment is being properly utilized. This will also help to identify material that may be appropriate for training.

Tools for Tolerance

Officer	Date
Costa	10/11/05
McGee	10/11/05
Goldstein	10/20/05
Johnson	10/27/05
Williams	10/27/05
Lore	11/18/05
Spinner	11/18/05
Oppedisano	11/18/05
Ferguson	11/22/05
Rodriguez, R	11/22/05
Falcone	11/22/05
Salerno	11/22/05
McKnight	11/22/05
Jackson	11/30/05
Fudge	11/30/05
O'Rourke	11/30/05
Alali	11/30/05
Geralt's	11/30/05
Brandeis	11/30/05



Search



The SWC family of websites

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Law Enforcement

Criminal Justice

Education

Public Sector

Law Enforcement Programs

- Command Level
- Community Partnerships
- Cultural Diversity
- Hate Crimes
- Racial Profiling
- Supervising Line Staff
- Classes at the Museum of Tolerance
- Classes at the New York Tolerance Center
- Classes at Your Agency

- [Law Enforcement Programs Introduction](#)

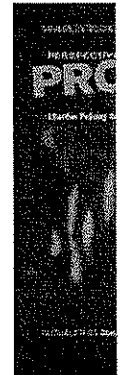
Building Community Trust in a Diverse Post-9/11 Environment

A Class at the New York Tolerance Center

"It reminds Law Enforcement that there are many dimensions to policing and helps to empower Law Enforcement to police in a diverse society."
TFT Participant

Building Community Trust in a Diverse Post-9/11 Environment is an innovative, day-long program that examines the process of trust-building given the new complexities facing the criminal justice system. In a post 9/11 environment, the reality of terrorism has created an imperative for all parts of the system to actively engage in prevention. Prevention requires the vigilance and cooperation of communities. Never before has trust between the community and the criminal justice system been so necessary. By introducing models such as "Dimensions of Trust" and "Spectrum of Tolerance," among others, we look at the nature of trust and how to increase it in a diverse environment.

Training Coordinators: To register your participants please click on the new **Register Online** link below. You may also contact Curran Geist by telephone at (212) 697-1180 or by e-mail with your agencies name, the number of participants, and the dates that you would like to request. It is highly recommended that you register atleast two to three weeks in advance for any program date.



Interactive



Travel Reimbursement Policy: Please note that we can no longer provide travel reimbursement to any participants registering for programs.




Length of Training: 9:00 AM - 4:00 PM
Maximum Seating: 35 per session

REGISTER ONLINE

DATES AVAILABLE

FEBRUARY 2007	
20	Tuesday FULL
MARCH 2007	
6	Tuesday
28	Wednesday
APRIL 2007	
12	Thursday

[SEND US AN E-MAIL](#)[Return to the Class List](#)

<div data-bbox="165 1407 322 1774"></div> <div data-bbox="165 357 322 1396"><div data-bbox="231 1155 272 1239">Search:</div><div data-bbox="231 861 272 1144"><input type="text"/></div><div data-bbox="231 735 272 850">Submit</div><div data-bbox="231 546 272 724">Select a Site</div><div data-bbox="173 388 214 976">MUSEUM STORE BECOME A MEMBER DONATE NOW</div><div data-bbox="280 409 322 1333"><div>HOME</div><div>VISIT</div><div>YOUTH</div><div>PROFESSIONALS</div><div>EVENTS</div><div>ABOUT US</div><div>GET INVOLVED</div><div>SUPPORT</div></div></div>	<div data-bbox="371 1470 569 1764"><p>Other Locations</p><div data-bbox="404 1680 487 1753"></div><p>Center for Human Dignity, Jerusalem</p><p>New York Tolerance Center</p><p>Sign-up for e-Newsletter</p></div> <div data-bbox="371 966 404 1396"><p>New York Tolerance Center</p></div> <div data-bbox="454 1050 1131 1396"><p>The New York Tolerance Center, in the heart of Manhattan, is a professional development multi-media training facility targeting educators, law enforcement officials, and state/local government practitioners. Modeled after the successful Tools for Tolerance Program at the Museum of Tolerance in Los Angeles, the Tolerance Center provides participants with an intense educational and experiential daylong training program. Through interactive workshops, exhibits, and videos, individuals explore issues of prejudice, diversity, tolerance, and cooperation in the workplace and in the community.</p></div> <div data-bbox="1172 1050 1321 1396"><p>Past and ongoing participants include the New York and New Jersey State Police Departments, NYPD, New York City Parks Department, District Attorney's offices of the Bronx, Brooklyn, Queens and Staten Island, Grand Central Partnership and various other corporate and Jewish groups</p></div> <div data-bbox="429 420 1230 1039"></div>
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reservation-only basis. Please call for dates and times.

Admission:

Adults.....\$20.00

Students and Seniors.....\$15.00

For further information please call 212/697-1180.

Use this link for more information about the New York Office of the Simon Wiesenthal Center.

The New York Tolerance Center is available for special events. Please call the Simon Wiesenthal Center's New York office at 212-370-0320.

The New York Tolerance Center is seeking volunteer docents to assist in communicating our message by leading tours and other opportunities. We are asking for a minimum commitment of 16 hours (2 days) per month, in addition to completing required training.

Please fill out the Volunteer Application Form and return it to:
Karen Shulman via fax at 212/697-1314 or via e-mail
kshulman@tolerancecenter.org

STAFF:

Bridget Regan, J.D., Director
bregan@tolerancecenter.org

Curran Geist, Project Coordinator
cgeist@tolerancecenter.org

Karen Shulman, Project Coordinator
kshulman@tolerancecenter.org

Ian Lipner, Technical Contact
ilipner@tolerancecenter.com

Anne Godlewski, Administrative Coordinator

agodlewski@tolerancecenter.org

**For more information on the New York Tolerance Center,
click here.**

(Adobe Acrobat required)



Adobe Acrobat Reader required

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The Post Patrol Book



Revised March 2002

9146542307

New Rochelle Police Department
Training Unit
Lt. Cosmo Costa, Training Director
Do not reproduce without the permission of the Training Unit

RECEIVED TIME JUL. 20. 4:04PM

PRINT TIME JUL. 20. 4:12PM

9146542307

New Rochelle Police Department

The Post Patrol Guide

The post patrol guide is intended to provide the patrol officer and supervisor with information regarding the location and designation of posts, throughout the City, as well providing information concerning the staffing of those posts.

The territory within the police jurisdiction of the City of New Rochelle is divided into Posts designated as **Sectors and Beats and Foot Posts**.

There are nine established Sectors and eleven established Beats. Foot Posts are situated within each established Beat.

Sectors are established for the purpose of defining patrol area responsibilities.

Beats are established for the purpose of defining structured community policing responsibilities.

Foot Posts are established for the purpose of defining areas of special attention, within the Beats.

Additional posts may be temporarily created as the need arises.

New Rochelle Police Department

Post Patrol General Information

1. The explanation hereafter used for Tours of Duty is as follows:

First Tour of Duty

12 Midnight to 8:00 a.m. (0001 – 0800 hrs.)

Second Tour of Duty

8:00 a.m. to 4:00 p.m. (0800 – 1600 hrs.)

Third Tour of Duty

4:00 p.m. to 12 Midnight (1600 – 2400 hrs.)

2. Personnel assigned to sector, beat, post or foot post patrol will confine their non-directed patrol activities to their assigned sector, beat or foot post.
3. Personnel assigned to foot post will confine their patrol to that area and will be responsible for all conditions requiring police attention on their post during their tour of duty. Officers assigned to a foot post will contact headquarters, every thirty minutes with his or her location. The officer should contact headquarters from a pay phone using 911. If a pay phone is unavailable, the officer should contact headquarters by radio.
4. Officers going on meal period or out of service for any reason will notify Headquarters via radio. Officers out of service for traffic violators will notify headquarters and give the location and license plate of vehicle stopped, prior to exiting their patrol vehicle.
5. The time allowed for meal period is 30 minutes and is regulated by work sheet.
6. Police officers will take their meal period on their assigned sector, beat, post or foot post *whenever possible*. There is no extension of the meal period for police officers assigned to patrol sectors.
7. When assigned to a fixed post for the entire tour, the meal period will be 60 minutes.

9146542307

New Rochelle Police Department

8. When manpower shortages or other circumstances alter established post patrols and result in the merging of posts, the assigned officer will secure permission from the desk officer as to the time the officer is to take his or her meal period. The officer will notify headquarters upon resuming duty after the meal period.
9. In the event that an officer is delayed for a legitimate police purpose from taking his or her assigned meal period, the officer will notify the desk officer and request that another meal period be assigned. The desk officer will note any change of meal periods on the PD-59 (Daily Work Sheet).
10. When houses are listed on the House Inspection Form (PD 41), they will be listed as "dark" houses. A "dark" house is one that is unoccupied for a period of time and the owner or person responsible gives notice to the Department. Whenever the inspection of any door or window of any building is rendered impossible or impractical by reason of a fence or other obstacles, an entry to this effect will be made in the Memo Book (PD 84A) of the inspecting officer. When in doubt as to an inspection, notify the patrol supervisor immediately.
11. It shall be the duty of members of the Second and Third tours to make inspections of "dark" houses, making at least one inspection in each 24-hour period. It shall be the duty of all Second tour personnel to notify their Third tour relief at the change of tours of all "dark" houses that were not inspected during their respective tour of duty.
12. Police Officers on sector and beats will include as part of their patrol all municipal parking lots and garages. Additionally, officers will make frequent inspections of the exterior of all commercial establishments, public buildings and schools. The inspections of all such building and facilities will include the front, sides and rear where physically practical. Furthermore, Sector Four and Beat One will patrol the interior of the railroad station. Sector Two and Beat One will patrol the interior of the library. The time devoted to patrolling the interior of the above locations shall not exceed ten minutes unless circumstances dictate more time is necessary. Officers assigned to sector patrol will notify the police dispatcher when patrolling the interior of the railroad station or the public library.
13. If a door, window, transom, gate or grating is found open or unlocked, an inspection will be made of the premise and headquarters will be notified of the condition. A patrol supervisor will be dispatched to the location of the open or unlocked door, window, transom, gate or grating. The officer will be guided by the orders of the patrol supervisor.
14. Police Officers assigned to Sector patrol will be **entirely** responsible for all conditions on their sector requiring police attention, such as house inspections, court process service, police radio calls and all police duty as specified in the Rules and Regulations and Manual of Procedure.

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New Rochelle Police Department

15. Upon being relieved at the expiration of a tour of duty, all officers will advise their relief of all unusual police conditions existing on their respective sectors, such as inspections they were unable to complete, hazardous conditions, etc., together with all other pertinent information they may possess. Police officers assigned to Foot Posts will forward to their relief all information of an emergency nature. If information of an emergency nature exists, on a Foot Post and there is no relief, the information will be provided to the desk officer.
16. At the beginning of each tour of duty, all officers will seek and obtain all such information from the officers they relieve.
17. All members of the Department assigned to school crossings, church crossings or other fixed traffic posts will, on arriving at their crossings, advise headquarters and then stand in the street in the best position to safeguard the children and pedestrians crossing the street.
18. Police officers assigned to school crossing or thoroughfares where the traffic light control system is in operation will regulate traffic in compliance with the traffic light signals. Police officers will not unnecessarily stop traffic contrary to the traffic control lights in order to allow school children or pedestrians across the roadway.
19. The provisions of the City Code permit police officers to disregard any traffic light signal or posted sign in order to expedite the movement of traffic or safeguard pedestrians or property; however, this provision should not be invoked by police officers assigned to school crossings when no emergency exists.
20. When directing traffic, traffic officers will take up a safe, visible position in the middle of the intersection or as near thereto as possible and shall direct traffic by using both hand signals and the whistle. These directions shall be delivered in a calm and deliberate manner. Rapid hand movements, excessive whistle blowing and verbal directions will be avoided. Traffic officers should remain vigilante, at all times, for vehicular and pedestrian traffic.
21. When assigned to a traffic post the traffic officer will be equipped with:
 - a) Whistle
 - b) White gloves
 - c) Traffic vest
 - d) Flashlight, if assigned at night

Additionally, when the traffic officer is wearing a raincoat, he or she will wear it orange side out.

22. Foot posts will be patrolled in a manner so as to direct attention to the problem areas of the post. Foot posts will be patrolled in the above manner unless the officer is directed to patrol the post in a specific manner by a patrol supervisor.

New Rochelle Police Department

BEAT BOUNDARIES

BEAT 7

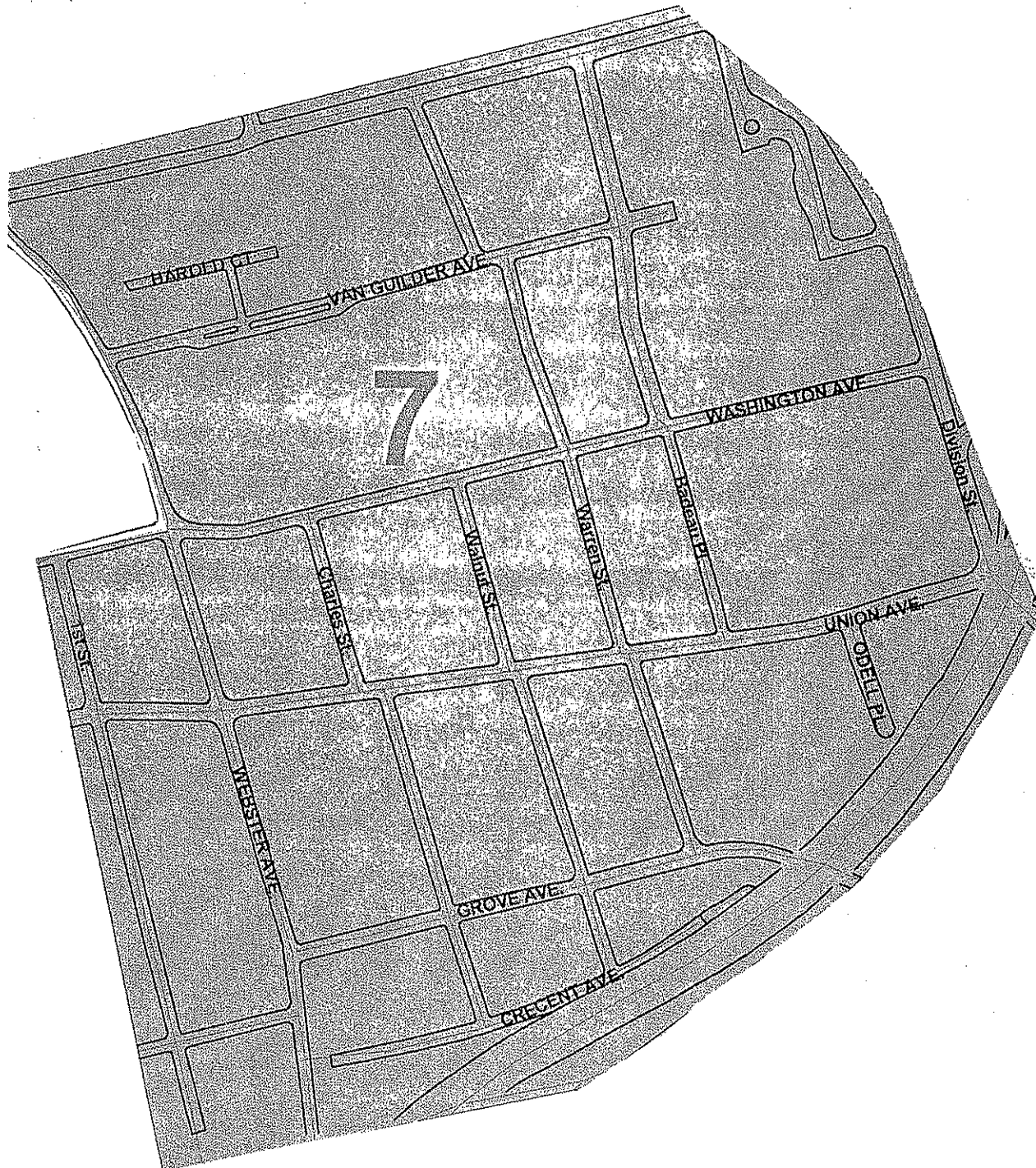
First Street to Washington Avenue to Webster Avenue on the west;
Lockwood Avenue on the north;
Division Street on the east;
Interstate 95 on the south.

FOOT POST 7

Shall include all the territory bounded as follows:

On the north - Washington Avenue from 1st Street to Warren Street;
On the east - Warren Street to Grove Avenue;
On the south - Grove Avenue to Jones Street to 1st Street;
On the west - 1st Street.

Foot Post 7 should be patrolled according to the conditions, which may require attention on the post.



BEAT SEVEN

9146542307

New Rochelle Police Department

BEAT BOUNDARIES

BEAT 8

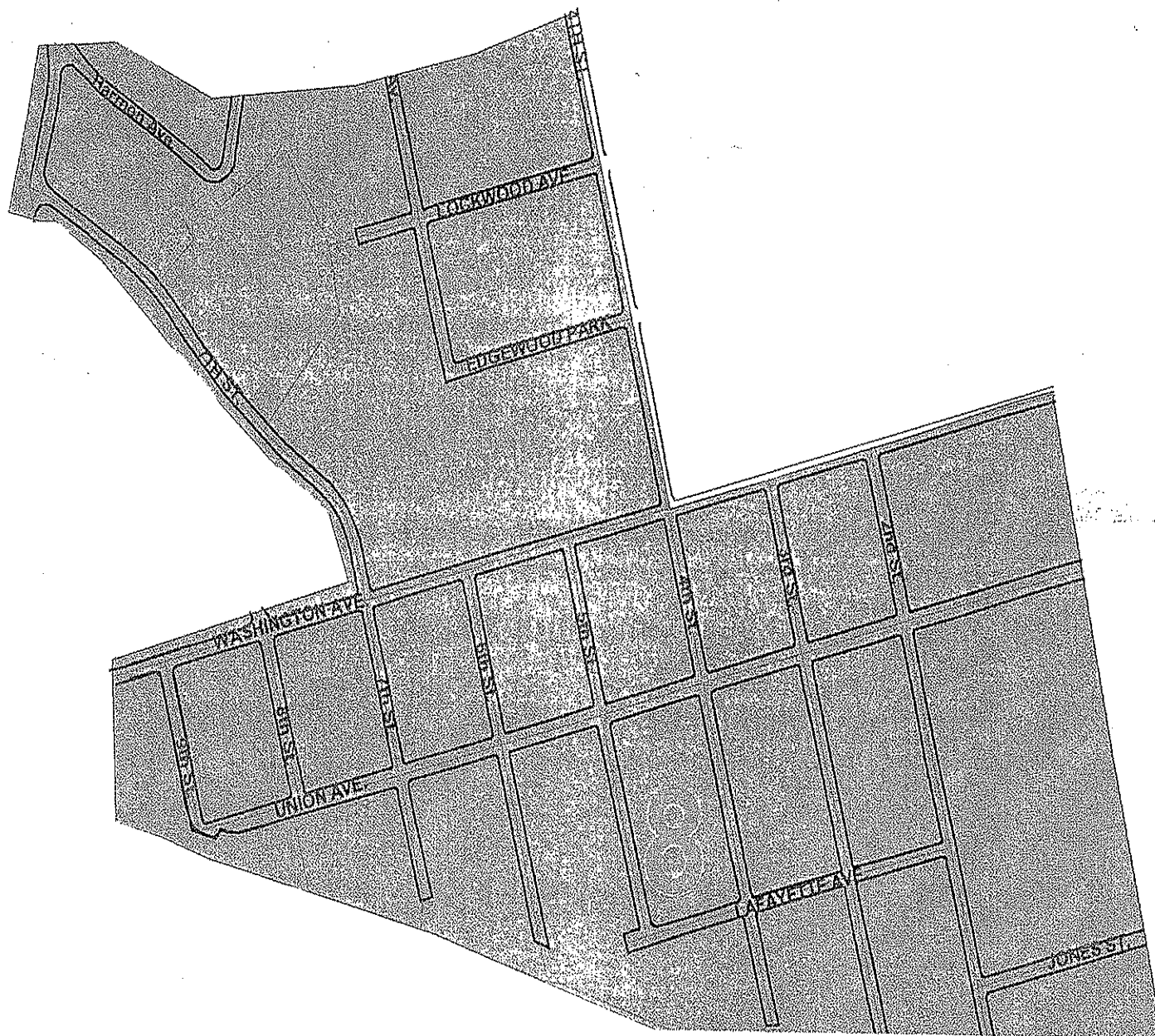
City line with the Town of Pelham to Feeney Park on the west;
Lockwood Avenue to Fourth Street to Washington Avenue on
the north;
First Street on the east;
Railroad tracks on the south.

FOOT POST 8

Shall include all territory bounded as follows:

On the north - Washington Avenue 6th Street to 2nd Street;
On the east - 2nd Street to Union Avenue;
On the south - Union Avenue to 6th Street;
On the west - 6th Street (post shall include Feeney Park).

**Foot Post 8 should be patrolled according to the conditions,
which may require attention on the post.**

**BEAT EIGHT**

AGREEMENT

BETWEEN

THE CITY OF NEW ROCHELLE

AND

POLICE ASSOCIATION OF NEW ROCHELLE, N.Y., INC.

Effective January 1, 2005

AGREEMENT

Between

The City of New Rochelle

And

Police Association of New Rochelle, NY. Inc.

Effective January 1, 2005

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ARTICLE X - GENERAL PROVISIONS

1. Probationary Appointments. The UNION and the EMPLOYER agree that a probationary appointment to the Police Department is deemed to be a trial period, the term of which is set forth in the Civil Service Rules; the parties further agree that while a probationary appointee is entitled to all the economic benefits and terms of this AGREEMENT, such appointee is, nevertheless, subject to discharge from the Department by the EMPLOYER for any reason deemed sufficient by the EMPLOYER and such discharge, if it occurs, shall not be subject to the grievance procedure hereafter established under Article XI.

2. Uniform and Cleaning Allowance. The annual uniform and cleaning allowance payable in January to each employee in the bargaining unit is \$775 for 2005, \$800 for 2006, \$825 for 2007, \$850 for 2008 and \$900 for 2009.

A uniform and cleaning allowance of seven hundred fifty (\$750.00) dollars shall be paid to a new employee upon the completion of his probationary appointment retroactive to the date upon which he first became a probationary appointee of the Police Department. At the beginning of the next calendar year of his service as a permanent appointee of the Police Department, he shall receive a pro-rata share of the regular uniform and cleaning allowance as all other employees presently in the bargaining unit and on the same basis as set forth above; said pro-rata share shall be computed on the basis of the number of calendar days actually worked during the preceding year; thereafter he shall receive the full annual allowance as set forth in the first paragraph above.

3. Radio Motor Patrol Cars (Repair). If it becomes necessary to change a flat tire on a police vehicle, the employee shall have the right to call the Duty Tow Service when the municipal garage is closed.

4. Mileage Allowance (Outside City). A member of the Police Association who, with the prior authorization of the member's supervisor, uses his/her personal vehicle for travel outside the City of New Rochelle in the course of, or connected with his/her employment, shall receive a mileage allowance equal to the then prevailing rate established by the Internal Revenue Service computed on the roundtrip distance from headquarters to the place traveled.

5. Personal Items (Compensation for Loss). An employee shall be compensated for the loss and damage of personal items, excluding automobiles, in the course of a police action to a maximum of seventy-five (\$75.00) dollars per incident.

6. Polygraph. An employee may not be ordered to take a polygraph test.

7. Separation from Service (Cash Payment Entitlement). An employee, whose services are terminated for any reason except cause, or his legal representative in the event of death, shall be entitled to and shall within thirty (30) days, receive the cash payment of the monetary value of all benefits to which he has become entitled.

8. Squad room (Improvement in Facilities). There shall be an increased number of chairs and a pay phone installed in the squad room in police headquarters.

9. Standby. An employee who is ordered to be on standby shall be given one (1) hour compensatory time for every two (2) hours he actually remains on standby. Compensatory time for standby shall be pro-rated. For purposes of this section, standby is time that an employee is not actually on duty but is continuously available to report to duty within one (1) hour of receiving notification, and the employee is required to insure his availability by furnishing to the Commissioner of Police or his designee a place where he may be so notified.

10. Subpoena Fees (Special Compensation After Separation from Service). A member, whose services are terminated for any reason except cause, who is called to testify in criminal or civil cases or administrative hearings that he investigated or in which he was involved in his official

11. Tuition Reimbursement. The Police Commissioner may approve either partial or full reimbursement by the EMPLOYER of tuition for courses taken by unit members under the following circumstances:

A. The unit member must have completed his/her probationary period with the Police Department.

B. Courses for which tuition reimbursement is sought must be credited toward an undergraduate or graduate degree in Criminal Justice or Public Administration and must be approved in advance by the Police Commissioner.

C. The Police Commissioner may set standards and limits for minimum grades that must be achieved and maximum course costs for reimbursement.

D. The unit member must successfully complete a course prior to filing for actual reimbursement.

E. When filing for reimbursement, the unit member shall submit such proof of course cost, content and grade received as required by the Police Commissioner.

F. A unit member who resigns, retires or otherwise terminates employment with the City of New Rochelle shall reimburse the City for tuition payment made to him/her for courses completed within one year prior to such resignation, retirement, or other termination of employment. The City reserves the right to withhold such tuition reimbursement from any payments which are due the unit member upon a separation from the employ of the City.

G. The total amount of City tuition reimbursement that may be approved for the unit membership as a whole shall not exceed \$30,000 for 2005 and \$40,000 per year effective 2006.

ARTICLE XI - SETTLEMENT OF DISPUTES

1. Scope and Intent. In the event of a dispute or a grievance between the EMPLOYER and the UNION or any employee represented by the UNION, representatives of the EMPLOYER and the UNION shall make an honest and sincere effort to adjust the same in an amicable manner. Failing such adjustment, the dispute settlement procedure as described in this Article of the AGREEMENT shall be followed.

This procedure shall be used in seeking the settlement of any grievance or dispute which may arise between the parties, including the application, interpretation or enforcement of this AGREEMENT. However, matters shall not be handled under this procedure involving alteration of wage rate schedules, retirement benefits established elsewhere in this AGREEMENT, or of established budget appropriations or personnel authorizations.

The time limits in the grievance procedure may be extended by mutual agreement in writing.

Any step of the grievance procedure may be bypassed by mutual agreement, in writing.

2. First Stage. The grievance shall be presented, in writing, by the employee or the UNION to the Commissioner of Police within twenty (20) work days of its occurrence. The Commissioner of Police or his/her designee shall issue his/her response to the grievant, in writing, within thirteen (13) work days after the presentation of the grievance to him/her.

3. Second Stage. If the grievance is not settled at the first stage, it shall be presented by the UNION to the EMPLOYER'S Director of Personnel, in writing, within fifteen (15) work days after the response of the Commissioner of Police is due. The Director of Personnel shall act upon the grievance within fifteen (15) work days after his/her receipt of the matter in the form of a written response to the UNION with copies to the City Manager, the Commissioner of Police and the employee.

4. Arbitration. Grievances which have not been settled through the third stage shall be referred to binding arbitration if either party serves written notice on the other requesting arbitration. Such notice shall be filed within thirty (30) work days after the decision of the Director of Personnel is due.

5. Binding Arbitration. If the grievance to be settled involves issues directly related to the interpretation, application or enforcement of the provisions of this AGREEMENT, it shall be referred to binding arbitration. However, the following shall not be subject or submitted to binding arbitration: provisions of the AGREEMENT which relate to or in any manner affect the obligations of the EMPLOYER as intended by State statute or City Charter; any matter which is covered by State statute relating to the operation and jurisdiction of the Municipal Civil Service Commission, including rules which the Commission is authorized to promulgate; the elimination or discontinuance of any job.

Binding arbitration shall be conducted by an arbitrator to be selected by the EMPLOYER and the UNION after notice has been given by either party of intention to proceed to binding arbitration. The arbitrator shall be selected from a panel of impartial arbitrators furnished by the New York State Public Employment Relations Board.

No issue whatsoever shall be arbitrated or subject to arbitration unless such issue results from an action or occurrence which takes place following the effective date of this AGREEMENT, and no arbitration determination or award shall be made by an arbitrator which grants any right or relief for any period of time whatsoever prior to the effective date of this AGREEMENT. In the event that this AGREEMENT is terminated or breached for any reason, rights to arbitration thereupon cease. This provision, however, shall not affect any arbitration proceedings which were properly commenced prior to the expiration date or termination of this AGREEMENT.

No award of any arbitrator may be retro-active to a date which is earlier than thirty (30) working days prior to the filing of the grievance.

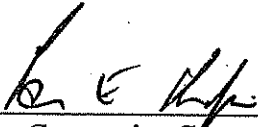
The arbitrator shall have initial authority to determine whether or not the dispute is arbitrable under the expressed terms of this AGREEMENT. Once it is determined that a dispute is arbitrable, the arbitrator shall proceed in accordance with this Article to determine the merits of the disputes submitted to arbitration.

The arbitrator shall neither add to, detract from nor modify the language of this AGREEMENT in arriving at a determination of any issue presented that is proper for arbitration within the limitations expressed. The arbitrator shall have no authority to grant wage increases or wage decreases, or to grant increases or decreases in personnel.

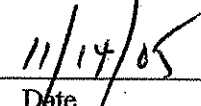
The arbitrator shall expressly confine himself to the precise issue submitted for arbitration and shall have no authority to determine any other issue not so submitted to him, or to submit observations or declarations of opinion which are not directly essential in reaching the determination.

Expenses for the arbitrator's services and the proceedings shall be borne equally by the EMPLOYER and the UNION. However, each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, provided it pays for the record and makes copies available without charge to the other party.

APPROVED AS TO FORM:



Corporation Counsel



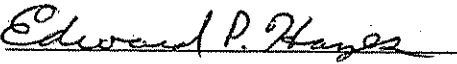
Date

FOR THE CITY OF NEW ROCHELLE:



City Manager

**FOR THE POLICE ASSOCIATION
OF NEW ROCHELLE, N.Y., INC.:**



President

93/15/2007 08:50 FAX 914 6542345

TCNR LAW

+ MEISELS PETER

004

914 6542345

CHARGE OF DISCRIMINATION

ENTER CHARGE
NUMBER

This form is affected by the Privacy Act of 1974; see Privacy Act Statement on reverse before completing this form

☐ FEPA
☒ EEOC

NEW YORK STATE DIVISION OF HUMAN RIGHTS

and EEOC

(State or local Agency, if any)

520-2007-0127

NAME (Indicate Mr.,)

DOB: 06/17/72

HOME TELEPHONE NO. (Include
Area Code)

914-738-0909

Mr. Araz Alali

ss#: 130-70-5610

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

703 Pelham Road, Unit 514, New Rochelle, New York 10805

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL
GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

NO. OF EMPLOYEES/MEMBERS

TELEPHONE NUMBER (Include
Area Code)

City of New Rochelle

500+-

914-654-2227

STREET ADDRESS

CITY, STATE AND ZIP CODE

475 North Avenue, New Rochelle, New York

NAME

N/A

FEB 12 2007

TELEPHONE NUMBER (Include
Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE ☒ COLOR SEX ☐ RELIGION ☒ NATIONAL ORIGIN

age

RETALIATION

OTHER

DATE MOST RECENT OR CONTINUING
DISCRIMINATION TOOK PLACE
(Month, day, year)

February 12, 2007

I am a male of Iraqi national origin and am employed as a Police Officer in the Respondent City of New Rochelle, New York. I am the only sworn member of the Department who is of Middle Eastern descent; and I believe I am the first such individual ever to be employed by the Respondent in its Police Department. Since virtually the commencement of my employment with Respondent I have been: targeted for disparate treatment (referred to as "Ali Baba", "terrorist", and *inter alia* "Ali"); denied specialized training which is routinely given to less senior officers; repeatedly false accused of wrong-doing; targeted for retaliation for conduct engaged in with complete impunity by other members of the Police Department; repeatedly given job performance evaluations falsely characterizing my work as "below standard" when in fact my job performance is above standard; repeatedly "investigated" on admittedly false/frivolous civilian complaints; punitively assigned to exclusively issue traffic tickets for double parked vehicles and operators of motor vehicles who make U-turns on North Avenue in the City of New Rochelle; punitively assigned to work as a dispatcher -- an assignment no other Police Officer has had given the employment by the Respondent of civilian dispatchers; forbidden to operate a police vehicle; assigned foot patrol on midnight tours of duty -- an otherwise non-existent assignment -- in snow and rainy conditions. Since the only conceivable motive for this disparate treatment is my race, national origin and/or ethnicity I charge Respondent with violating my rights under Title VII.

☒ I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Araz Alali, 2/12/07

NOTARY-(When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month and year)DEFENDANT'S
EXHIBIT

MAR 15 2007 08:16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARAZ ALALI,

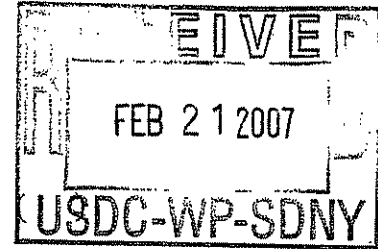
Plaintiff,

-against-

ROBERT GAZZOLA, individually,
PATRICK J. CARROLL, individually,
and the CITY OF NEW ROCHELLE,
New York,

Defendants.

07 Civ.



COMPLAINT

07 CIV. 1296
July Trial Demanded

BRIANT

Plaintiff ARAZ ALALI, by his attorneys Lovett & Gould, LLP, for his complaint respectfully states:

NATURE OF THE ACTION

1. This is an action for compensatory and punitive damages, proximately resulting from the conduct of the Defendants engaged in jointly and under color of the laws of the State of New York, for violations of Plaintiff's rights as guaranteed by 42 U.S.C. §2000e *et. seq.*, 42 U.S.C. §1981, and 42 U.S.C. §1983.

JURISDICTION

2. Plaintiff's federal civil rights claims (including a Title VII retaliation claim), as set forth *infra*, are interposed in accordance with 28 U.S.C. §§1331, 1343. Plaintiff's state law claim is made pursuant to 28 U.S.C. §1367. Plaintiff's underlying Title VII claim is the subject of a Charge of Discrimination presently pending before the United States



Equal Employment Opportunity Commission. At such time as the EEOC issues a Notice of Right to Sue Plaintiff will seek leave of the Court to amend this complaint.

THE PARTIES

3. Plaintiff ARAZ ALALI is a citizen of the United States, a domiciliary of the State of New York, and a resident of the Northern Counties. At all times relevant to this complaint he was employed as a Police Officer by the City of New Rochelle, New York, having previously been employed as such by *inter alia* the City of New York. Plaintiff is of Iraqi national origin and as such is the only Police Officer of Middle Eastern descent who has ever been employed by the City of New Rochelle (hereinafter alternatively the "City").

4. Defendant ROBERT GAZZOLA (hereinafter "Gazzola"), who is sued in his individual and personal capacities only, at all times relevant to this complaint was employed as a Police Captain by the City. By reason of the departmental chain of command Gazzola has direct supervisory authority over Plaintiff.

5. Defendant PATRICK J. CARROLL (hereinafter "Carroll"), who is sued in his individual and personal capacities only, at all times relevant to this complaint was employed as the Commissioner of Police by the City.

6. Defendant CITY OF NEW ROCHELLE, New York (hereinafter "City"), is a municipal corporate subdivision of the State of New York duly existing by reason of and pursuant to the laws of the State of New York.

THE FACTS

7. Commencing almost immediately following Plaintiff's February 2002 transfer to the City's Police Department, and continuing to date, he has been systematically and deliberately subjected to discriminatory and disparate treatment by reason of his national origin, ethnicity and/or color.

8. In that connection Plaintiff has, to Defendants' knowledge and/or at their direction and/or with their active encouragement and condonation, been:

a. Repeatedly been addressed as: "terrorist"; "Ali Baba", "Camel Jockey" and *inter alia*, "Ali",

b. Repeatedly been denied any meaningful specialized training, which training is routinely provided by Defendants to Police Officers junior to Plaintiff in seniority,

c. Forced to attend a seminar concerning "Tools for Tolerance Post 911", which assignment was calculated by Defendants to humiliate and embarrass Plaintiff since he alone has been the departmental target of systemic intolerance by reason of his ethnicity,

d. Systematically been given calculatedly false "below standard" job performance evaluations (when in fact his job performance has consistently been above average), replete with fabrications and/or falsehoods, which evaluations have served as Defendants' predicate for barring Plaintiff from working on an overtime basis - - thus causing him substantial pecuniary losses,

d. Assigned for months at a time as a “dispatcher” in the Police Department’s Communications Room - - even though the dispatcher function is civilian in nature and otherwise performed by non-police employees of the Department,

e. Forced to work walking posts during a midnight to 8:00 a.m. tour of duty, in heavy rain and/or snow, when there otherwise is no walking post assigned on such a shift,

f. Forbidden, for substantial periods of time, to operate a police vehicle,

g. Forbidden, for substantial periods of time, to interact with members of the public while on duty,

h. Prohibited, by reason of the false “below standard” job performance evaluations, to engage in so-called “mutual switches” of job duty assignments with other sworn members of the Police Department,

i. Subjected repeatedly to “investigations” of supposed wrong doing under circumstances where no wrong doing occurred and Defendants knew that no wrong doing had occurred, and,

j. For substantial periods of time being restricted to issuing parking tickets on one street in the City for the purpose of humiliating and degrading him.

9. As a result of the discriminatory treatment accorded him, Plaintiff has on occasion non-disruptively expressed to Defendants his concerns and in that connection:

a. On January 7, 2007, advised Carroll that he was the subject of “[p]ersecution based on heritage” and that he was the subject of retaliatory actions “solely based upon [his] middle-eastern heritage”, and, *inter alia*,

b. On February 2, 2007, advised Gazzola in a rebuttal to one of many calculated false "below standard" job performance evaluations: "I am being singled out due to my heritage. Being the sole middle-eastern police officer has been hopeless".

10. As a proximate result of Plaintiff's expressions of concern as evidenced by the preceding paragraph "9", Defendants agreed to punish him by denying Plaintiff tuition reimbursement in the amount of \$10,180 which was payable to Iona College for courses taken by Plaintiff in accordance with police departmental policy.

11. By reason of the continuing discriminatory treatment afforded him and the retaliation imposed because he expressed his opposition to that treatment, on February 12, 2007, Plaintiff duly filed a Charge of Discrimination ("race", "color" and "national origin") with the EEOC.

12. Also on February 12, 2007, Plaintiff through counsel notified Defendants by fax of the EEOC filing and cautioned that "any retaliation causally the result of that filing is independently actionable in Federal Court for damages".

13. Aware of Plaintiff's EEOC filing, Defendants again agreed to retaliate against Plaintiff, this time by serving him on February 15, 2007, with a series of frivolous disciplinary charges for the stated objective of penalizing him through the forfeiture of one month's salary. By way of contrast certain other members of the Police Department and personnel employed in the City's Court, who are known to Defendants to have committed both felonies and misdemeanors, have not been subjected to similar disciplinary action - - much less arrest/prosecution.

14. By reason of Defendants' intentional discriminatory treatment of Plaintiff

he has been: caused substantial pecuniary damages; publicly embarrassed; publicly humiliated; rendered anxious; caused emotional upset; suffered a gross impairment of his professional career; publicly degraded; and otherwise been rendered sick and sore.

AS AND FOR A FIRST CLAIM

15. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "14", inclusive.

16. Under the premises Defendants' conduct violated Plaintiff's rights as guaranteed by 42 U.S.C. §1981.

AS AND FOR A SECOND CLAIM

17. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "14", inclusive.

18. Under the premises Defendants' conduct violated Plaintiff's right to Equal Protection as guaranteed by reason of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §1983.

AS AND FOR A THIRD CLAIM

19. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "14", inclusive.

20. Under the premises the prosecution of the retaliatory disciplinary charges constitutes a selective prosecution violative of Plaintiff's rights as guaranteed by 42 U.S.C. §1983.

AS AND FOR A FOURTH CLAIM

21. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "14", inclusive.

22. Under the premises the retaliatory prosecution of the disciplinary charges violates Plaintiff's rights as guaranteed by 42 U.S.C. §2000e *et seq.*

AS AND FOR A FIFTH CLAIM

23. Repeats and realleges as if fully set forth the allegations of fact contained in paragraphs "1" to "14", inclusive.

24. Under the premises the City's conduct as Plaintiff's employer, and Gazzola and Carroll's conduct as aiders and abettors, violated Plaintiff's rights as guaranteed by Section 296 *et. seq.* of the New York State Executive Law.

WHEREFORE a judgment is respectfully demanded:

- a. Awarding against Gazzola and Carroll on the First, Second, Third and Fourth Claims such punitive damages as the jury may determine,
- b. Awarding against all Defendants on the First, Second, Third and Fourth Claims such compensatory damages as the jury may determine,
- c. Awarding as against all Defendants on the First, Second, Third and Fourth Claims reasonable attorney's fees and costs,
- d. Awarding on the Fifth Claim such compensatory damages as the jury may determine, and,

e. Granting such other and further relief as to the Court seems just and proper.

Dated: White Plains, N.Y.
February 17, 2007


LOVETT & GOULD, LLP

By: _____

Jonathan Lovett (4854)

Attorneys for Plaintiff
222 Bloomingdale Road
White Plains, N.Y. 10605
914-428-8401

WILSON, ELSE, MOSKOWITZ,
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3 Gannett Drive
White Plains, NY 10604
(914) 323-7000
Attn: Peter A. Meisels (PM-5018)
Lalit Loomba (LL-9755)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x 07 Civ. 1296(CLB)
ARAZ ALALI,

Plaintiff,

-against-

ANSWER

ROBERT GAZZOLA, individually, PATRICK J.
CARROLL, individually, and the CITY OF NEW
ROCHELLE, New York,

Defendants.

-----x

Defendants Robert Gazzola, Patrick J. Carroll and the City of New Rochelle, by
their attorneys Wilson, Elser, Moskowitz, Edelman & Dicker LLP, for their answer, state
as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth
of the allegations included in ¶ 1 of the complaint.
2. Deny knowledge or information sufficient to form a belief as to the truth
of the allegations included in ¶ 2 of the complaint.
3. Deny knowledge or information sufficient to form a belief as to the truth
of the allegations included in ¶ 3 of the complaint, except admit that Araz Alali is
employed as a Police Officer by the City of New Rochelle.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations included in ¶ 5 of the complaint, except admit that Robert Gazzola is employed as a Captain by the City of New Rochelle and denies that he has direct supervisory authority over plaintiff.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations included in ¶ 5 of the complaint, except admit that Patrick J. Carroll is the Commissioner of the Police of the City of New Rochelle.

6. Deny the truth of the allegations included in ¶ 6 of the complaint, except admit that the City of New Rochelle is a municipal corporation existing pursuant to the laws of the state of New York.

7. Deny the truth of the allegations included in ¶ 7 of the complaint.

8. Deny the truth of the allegations included in ¶ 8 of the complaint, including its various subdivisions (a) through (j).

9. Deny the truth of the allegations included in ¶ 9 of the complaint, including its various subdivisions (a) and (b).

10. Deny the truth of the allegations included in ¶ 10 of the complaint.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations included in ¶ 11 of the complaint.

12. Deny the truth of the allegations included in ¶ 12 of the complaint, except admit that plaintiff's counsel faxed correspondence to the City of New Rochelle regarding a complaint filed with the EEOC and refers the Court to the document itself for its contents.

13. Deny the truth of the allegations included in ¶ 13 of the complaint.

14. Deny the truth of the allegations included in ¶ 14 of the complaint.
15. Repeat and reallege the responses set forth in ¶¶ 1 through 14 above.
16. Deny the allegations included in ¶ 16 of the complaint and respectfully refer all questions of law to the Court.
17. Repeat and reallege the responses set forth in ¶¶ 1 through 16 above.
18. Deny the truth of the allegations included in ¶ 18 of the complaint and respectfully refer all questions of law to the Court.
19. Repeat and reallege the responses set forth in ¶¶ 1 through 18 above.
20. Deny the truth of the allegations included in ¶ 20 of the complaint, and respectfully refer all questions of law to the Court.
21. Repeat and reallege the responses set forth in ¶¶ 1 through 20 above.
22. Deny the truth of the allegations contained in ¶ 22 of the complaint, and respectfully refer all questions of law to the Court.
23. Repeat and reallege the response set forth in ¶¶ 1 through 22 above.
24. Deny the truth of the allegations included in ¶ 24 of the complaint and respectfully refer all questions of law to the Court.

**AS AND FOR A FIRST
AFFIRMATIVE DEFENSE**

25. Plaintiff fails to state a claim for which the Court may grant relief against the defendants.

**AS AND FOR A SECOND
AFFIRMATIVE DEFENSE**

26. Plaintiff failed to exhaust his administrative remedies.

**AS AND FOR A THIRD
AFFIRMATIVE DEFENSE**

27. Defendant Robert Gazzola is protected by the doctrine of absolute immunity.

**AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE**

28. Defendant Robert Gazzola is protected by the doctrine of qualified immunity.

**AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE**

29. Defendant Patrick J. Carroll is protected by the doctrine of absolute immunity.

**AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE**

30. Defendant Patrick J. Carroll is protected by the doctrine of qualified immunity.

**AS AND FOR A SEVENTH
AFFIRMATIVE DEFENSE**

31. Plaintiff's claims are time-barred.

**AS AND FOR AN EIGHTH
AFFIRMATIVE DEFENSE**

32. Any state law claims are barred by plaintiff's failure to serve a timely notice of claim.

**AS AND FOR A NINTH
AFFIRMATIVE DEFENSE**

33. Any actions taken in reference to the plaintiff were not taken pursuant to a policy or custom of the City of New Rochelle.

WHEREFORE, a judgment is respectfully demanded:

- a) Dismissing the complaint,
- b) Awarding to the defendants reasonable counsel fees against the plaintiff,
- c) Awarding to the defendants the costs and disbursements of this action against the plaintiff, and
- d) Granting such other, further or different relief to the defendants as the Court deems just and proper.

Dated: White Plains, New York
April 13, 2007

Yours, etc.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
Attorneys for Defendants

By: 

Peter A. Meisels (PM-5018)

3 Gannett Drive
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(914) 323-7000
File No.: 07367.00056

Answers to Complaints7:07-cv-01296-CLB Alali v. Gazzola et al

ECF

U.S. District Court**United States District Court for the Southern District of New York****Notice of Electronic Filing**

The following transaction was entered by Meisels, Peter on 4/13/2007 at 1:15 PM EDT and filed on 4/13/2007

Case Name: Alali v. Gazzola et al
Case Number: 7:07-cv-1296
Filer: Patrick J. Carroll
City of New Rochelle, New York
Robert Gazzola

Document Number: 6**Docket Text:**

ANSWER to Complaint. Document filed by Robert Gazzola, Patrick J. Carroll, City of New Rochelle, New York.(Meisels, Peter)

7:07-cv-1296 Notice has been electronically mailed to:

Jonathan Lovett jlovett@lovett-gould.com

Peter Alexander Meisels meiselsp@wemed.com

7:07-cv-1296 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1008691343 [Date=4/13/2007] [FileNumber=3269156-0]
] [4e4f75189ee2ab81ea09325992fb25107ccd4245ea32475c9321e2ac061f4098c29
4ddd6b913bacc2fa3827f35c7c6e59e267eb09a0809313c118ebcf558e9cf]]

Rev. January 2006

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
ARAZ ALALI,

Plaintiff(s),

- against -

CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER

07 Civ. 1296 (CLB) (GAY)

ROBERT GAZZOLA, individually,
PATRICK J. CARROLL, individually, and the
CITY OF NEW ROCHELLE, NEW YORK,Defendant(s).
-----x

This Court requires that this case shall be ready for trial on or after October 26, 2007.

The following Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rules 26(f) and 16 of the Federal Rules of Civil Procedure.

The case (is) ~~(is not)~~ to be tried to a jury.

Joinder of additional parties must be accomplished by

~~May 18, 2007~~

N/A

~~May 18, 2007~~

N/A

Amended pleadings may be filed until

Discovery:

1. Interrogatories are to be served by all counsel no later than ~~May 29, 2007~~ 6/20/07, and responses to such interrogatories shall be served within thirty (30) days thereafter. The provisions of Local Civil Rule 33.3 (shall) ~~(shall not)~~ apply to this case. 6/20/07

2. First request for production of documents, if any, to be served no later than ~~May 29, 2007~~ September 18, 2007

3. Depositions to be completed by

September 18, 2007

- a. Unless counsel agree otherwise or the Court so orders, depositions are not to be held until all parties have responded to any first requests for production of documents.
- b. Depositions shall proceed concurrently.
- c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
- d. If the defense of qualified immunity from suit as a matter of law has been or will be asserted by any defendant(s) with respect to any claim(s) in the case, counsel for any such defendant(s) shall, within thirty (30) days of this order depose plaintiff(s) at least concerning all facts relevant to the issue of qualified immunity.

914 390 4085

Within thirty (30) days thereafter defendant(s) shall serve consistent with Local Rule 6.1 and file a motion under Rule 12(c) or Rule 56, returnable on a date posted in the New York Law Journal by Judge Bricant for hearing motions. The motion shall, in the absence of agreement of counsel, be limited to the issue of qualified immunity, and plaintiff(s) version of the events shall be assumed true for purposes of the motion. Failure to comply with this provision of this Order shall operate as a waiver of the opportunity to resolve the issue of qualified immunity by motion prior to trial.

4. Any further interrogatories, including expert interrogatories, to be served no later than ~~July 16, 2007~~ 7/20/07 ~~September 21, 2007~~ 8/20/07
5. Requests to Admit, if any to be served no later than September 21, 2007
6. Additional provisions relating to discovery agreed upon by counsel for the parties (~~are~~ are not) attached and made a part hereof. 10/1/07
7. All discovery is to be complete by October 26, 2007

Dispositive motions, if any, must be served on notice as required by Local Civil Rule 6.1, and must be returnable before the Court on a published motion day, no later than three weeks before the ready for trial date.

Next Case Management Conference November 30, 2007 at 9:00 AM
(This date will be set by the Court at the first conference)

Joint Pretrial Order is required only if counsel for all parties agree that it is desirable, or the Court so orders.

This case has been designated to the Hon. George A. Yanthis, United States Magistrate Judge at White Plains for discovery disputes if the Court is "unavailable" and for trial under 28 U.S.C. § 636(c) if counsel execute their consent in writing.

Strict compliance with the trial readiness date will be required. This Plan and Order may not be changed without leave of the Court or the assigned Magistrate Judge acting under a specific reference order.

Upon signing a Consent for Trial Before a United States Magistrate Judge, the Magistrate Judge will establish an agreed date certain for trial and will amend this Plan and Order to provide for trial readiness consistent with that agreed date.

SO ORDERED.

Dated: White Plains, New York

May 25, 2007

Charles L. Bricant

Charles L. Bricant, U.S.D.J.